

# Council Assessment Report

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Panel Reference	PPSSTH-6
DA Number	DA.109.2019
LGA	Queanbeyan-Palerang Regional Council
Proposed Development	Subdivision for 218 residential lots, 1 residue lot for open space and associated infrastructure and open space
Street Address	28 Lonergan Drive, Greenleigh NSW 2620 Lot 1 DP 1249543 (previously referred to as Lot 5 1199045)
Site Area	94.5ha
Applicant/Owner	Peet Jumping Creek Pty Ltd
Date of DA lodgement	8/5/2019
Referral date	6/9/2019
Number of Submissions	7 (including a petition with 45 signatures)
Recommendation	Approval with conditions
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	Development that has a capital investment value of more than \$30 million
Capital investment value	\$31,000,000
List of all relevant s4.15(1)(a) matters	Queanbeyan Local Environmental Plan 2012 State Environmental Planning Policy (State and Regional Development) 2011 State Environmental Planning Policy No. 55 Contaminated Land Management State Environmental Planning Policy (Infrastructure) 2007 State Environmental Planning Policy (Koala Habitat Protection) 2021
List all documents submitted with this report for the Panel's consideration	Assessment Report Conditions of Consent Development Application Package – Statement of Environmental Effects including Appendices

Clause 4.6 requests	N/A
Summary of key submissions	Biodiversity Traffic Bushfire Flooding Impact on adjoining development
Report prepared by	Liz Densley
Report date	3 December 2021

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#### 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

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#### 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

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#### 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

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#### Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)? Not Applicable

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#### 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

# 1. Executive Summary

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The application is seeking the approval for the subdivision of Lot 1 DP 1249543 (formerly Part Lot 5 DP 1199045), 26 Lonergan Drive, Greenlee. The subdivision will create 218 residential lots one residual lot for open space and public roads. The design and construction of the proposed internal road network including internal local roads, on street parking, pedestrian and cycleways, road reserve landscaping and services and stormwater drainage infrastructure.

The DA has been assessed against the *Environmental Planning and Assessment Act 1979*, the *Environmental Planning and Assessment Regulation 2000*, relevant environmental planning instruments, development control plans and policies.

A summary of the assessment of all relevant environmental planning instruments is provided below with a detailed assessment provided later in the report.

State Environmental Planning Policy (State and Regional Development) 2011.	The Panel is the determining authority for this DA as the development has a CIV of \$31 million which exceeds the CIV threshold of \$30 million for Council to determine the DA.
State Environmental Planning Policy No 55 - Remediation of Land.	A summary of contamination assessment and extent of previous work undertaken on the site has been included in a report by Douglas Partners and concludes that the site is suitable, from a contamination perspective, for the proposed residential land use.
State Environmental Planning Policy (Infrastructure) 2007	The proposed development is traffic generating development and TfNSW have provided concurrence.
Queanbeyan Local Environmental Plan 2012	The development is consistent with the broad objectives of the QLEP and those of the relevant zone. The relevant development controls and local provisions have been addressed.
State Environmental Planning Policy (Koala Habitat Protection) 2021	Addressed in the BDAR and found not to be core koala habitat.

The Capital Investment Value (CIV) of the proposed development is approximately \$31 million. This value is over the \$30 million threshold which triggers the requirement for the determining authority to be the Southern Regional Planning Panel under State Environmental Planning Policy (State and Regional Development) 2011, Schedule 7.

The application was nominated as an Integrated Development requiring approvals under Fisheries Management Act 1994, National Parks and Wildlife Act 1974, Rural Fires Act 1997, Roads Act 1993 and the Water Management Act 2000.

Council has engaged with relevant agencies over the assessment period. The applicant has also responded to a number of requests for additional information from Heritage NSW, Rural Fire Service (RFS) and Councils Development Engineers. Changes have been made to the general arrangement, including a reduction in the number of lots from originally 221 to 219 and now 214 (212 development lots, 1 residual rural residential development lot and 1 residual open space lot), reconfiguration of second access the EDE, amendment to the design of stormwater features in response to Cultural Heritage assessment and additional bushfire control measures.

General Terms of Approval have been issued and have been incorporated into the draft consent from:

- Natural Resources Access Regulator a controlled activity approval under the *Water Management Act 2000*.
- Heritage NSW for an Aboriginal Heritage Impact Permit under the *National Parks and Wildlife Act 1974*.
- Rural Fire Service for approval under the *Rural Fires Act, 1997*.

The proposed development was referred to TfNSW and NSW Fisheries. TfNSW responded that they raise no issue or require any specific conditions. Fisheries likewise raised no objection nor provided General Terms of Approval.

The application was also referred to Office of Environment and Heritage, NSW Police and Essential Energy all of whom provided comments in support of the proposal.

#### Consultation

The DA was publicly exhibited for a period of 28 days in accordance with Council's policy. The exhibition period was from 29 May 2019 to 1 July 2019.

A total of eight submissions were received including one petition with 45 signatures.

A number of issues were raised in the submissions including:

- Protection of environmental values including riparian corridors
- Size of lots and building height
- Flooding and drainage (including timing of the Queanbeyan Floodplain Risk Management Plan and Study) and impact on water quality
- Additional traffic and access to Ellerton Drive Extension (EDE)
- Impact on views from existing urban areas and sound barriers
- Visual impact of sound barriers on Ellerton Drive Extension
- Bushfire risk
- Noise
- Cultural Heritage

These issues have been addressed in the assessment report and there are no outstanding matters.

The applicant has submitted a traffic report in support of the DA. The traffic report demonstrates that the development will not have a significant negative impact upon the surrounding road network and the operation of the proposed intersection with the EDE. Council staff have reviewed the report and supporting information and agree with their conclusions, however, included a recommendation that the intersection design be subject to modification prior to the issue of a Subdivision Works Certificate.

There are a number of other clarifications requested by the Development Engineer through conditions of consent including the requirement for Road 001 to be a Collector Road. These revisions can be accommodated without impacting the planning merit of the proposal.

As noted, the DA was referred to RFS and General Terms of Approval have been issued. Following the review of the conditions, and consultation with the applicant, a condition of consent has been included to require the removal of the 6 rural residential lots from Stage 3. Any development, including further subdivision of this area will need a subsequent approval.

The application included a number of lots that are impacted by a split minimum lot size and others that result in an irregular arrangement to avoid a split minimum lot size. Of the lots shown as having a split minimum lot size, all lots but three achieved the maximum of the two minimum lots sizes. This has been addressed in the report and considered in the context of interpretation and the intended outcome for the land in question. Clause 4.6 was unavailable as the land is an environmental zone and the arrangement excludes the application of the clause. Following discussion with the applicant, the area of the three lots in question will be amended to satisfy the maximum of the applicable minimum lot sizes. A condition has been included requiring the amendment of the plan to accommodate this. Council will consider the rectification of the lot size and zone anomaly in a future amendment to the planning instrument.

Approval is recommended subject to conditions.

## 2. Description of Proposal

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Council is in receipt of a development application from Peet Jumping Creek Pty Ltd that seeks consent subdivision and associated works. The DA seeks approval for:

The subdivision of land to create:

- 218 residential lots;
- 1 residual lot; and
- Public road dedications.
- Design and construction of the proposed internal road network, including:
  - Internal local roadways;
  - On-street parking;
  - Pedestrian and cycle ways;
  - Road reserve landscaping; and
  - Services and stormwater drainage infrastructure.
- Provision of utility infrastructure such as stormwater drainage, sewerage, telecommunications and water;
- Grading of the site for final residential lots, landscape shaping, boundary interfaces and roadway levels;
- Construction of pedestrian/cycleway and maintenance trails;
- Construction of bio-retention basin, sedimentation basins and wetlands; and
- Associated vegetation removal, street tree planting, landscaping, lighting and embellishments.

The site is known as Lot 1 DP 1249543 (previously Part Lot 5 DP 1199045), 28 Lonergan Drive Greenleigh.

The development will be constructed in stages as follows:

- Stage 1: 23 lots
- Stage 2A: 22 lots
- Stage 2B: 55 lots
- Stage 3A: 63 lots (4 large lots with building envelopes to be excluded)
- Stage 3B: 49 lots (2 large lots with building envelopes to be excluded)

The residue lots will also be delivered in stages.

Figure 1 General Arrangement

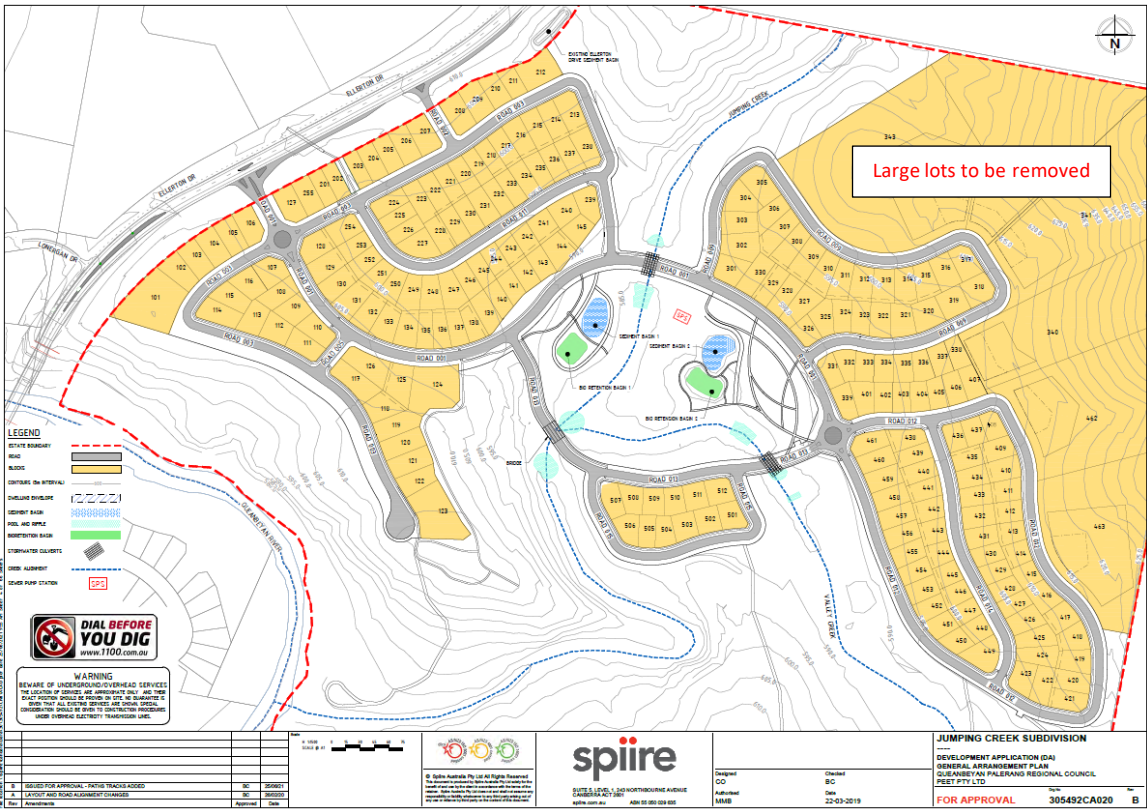
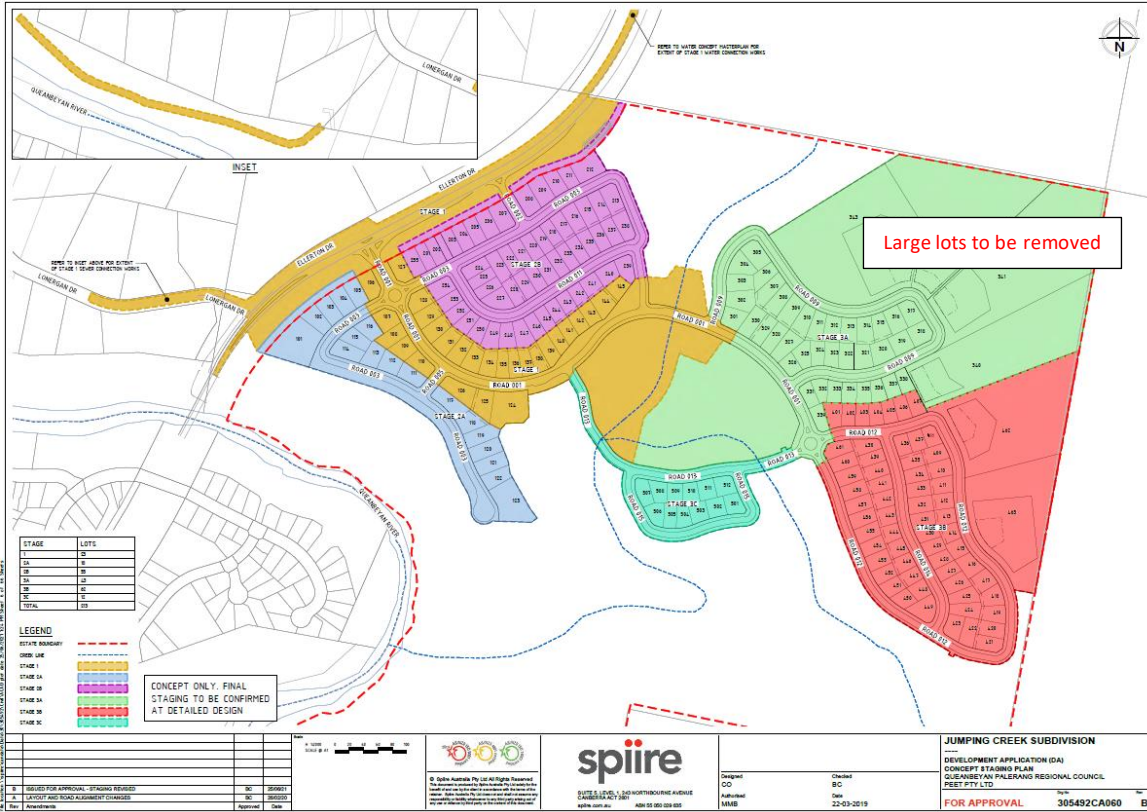


Figure 2 Construction Staging



## **2.1 Background**

The development application was lodged in May 2019. In the period since first being lodged, and in response to issues raised by both the community and agencies throughout the process, the proposal has undergone a number of reviews. The amended proposal includes a modification to the number of lots, realignment of roads to address bushfire and changes to the management of the Environmental Conservation areas.

Following extensive consultation, including with both the Office of Environment and Heritage (OEH) and Rural Fire Service (RFS) current configuration was submitted to council as a complete package in June 2021 with the most current layout plan for approval dated the 28 June 2021.

## **2.2 Voluntary Planning agreement**

The applicant has made an offer to enter into a planning agreement. The voluntary planning agreement (VPA) includes the following elements;

Broadly, the VPA provides for:

- The rehabilitation and improvement of 47.2ha of residual land at Jumping Creek not proposed to be developed (to a value of \$800,000). This land includes the entire Queanbeyan River foreshore of the development;
- The dedication of this residual land to Council for future public ownership;
- The dedication of 8.7ha of land for local active open space (local park) and embellishment of that land for facilities such as play equipment and the like (embellishment to a value of \$500,000);
- Monetary contributions for offsite roads, community services and plan administration (to a value of \$14,889 per lot or \$3,248,080 in total for the proposed development); and
- Monetary contributions for water and sewer infrastructure (to a value of \$5,951.63 per lot or \$1,297,455 in total for the proposed development).

As a consequence of entering into the VPA, no further local contributions would be payable by PEET under either s7.11 or s7.12 of the Environmental Planning and assessment Act 1979, or s306(2)(a) of the Water Management Act 2000 (i.e. contributions towards sewer or water utilities).

The VPA was reported to the Planning and Strategy Committee Meeting on 8<sup>th</sup> September 2021. The Committee Resolved to accept the offer and commence the exhibition of the VPA.

If executed in the current form, payments will align with the release of the final lot in the specific stage to with the Subdivision Certificate relates.

## **2.3 Site and context**

The subject site has an area of approximately 94.5ha and is surrounded by undeveloped land (nature reserve) to the north, east and south. Greenleigh Estate (low-density residential development). To the west is the suburb of Karabar and the eastern bank of the Queanbeyan River. The site is bounded to the north west by the Ellerton Drive Extension (EDE).

The site has historically been cleared for grazing and mining. The site is vacant but contains evidence of mining with spoil and debris being evident in some areas. There are significant areas of bushland located in the north east at the periphery of the Cuumbeun Nature Reserve.



Most of the Jumping Creek site comprises vacant grassland with scattered mature trees. The precinct is bordered by riparian corridors along its western boundaries associated with Queanbeyan River, and an unnamed tributary which centrally bisects the site.

The elevation of the site ranges from approximately 565 m Australian Height Datum (AHD) along the Queanbeyan River to 685 m AHD on the hill in the north-east of the site. The slope varies across the site, falling sharply around Valley Creek, the unnamed tributary, and their associated tributaries. In general, the land falls from outside to the inside, forming a bowl shape in the middle.

The site has been modified by its history of varying land uses, including mining, quarrying, and grazing/agriculture.

**Figure 3 Subject Site**



Source: SixMaps, 2021

### 3. Assessment

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#### 3.1 Commonwealth Legislation

*Environment Protection and Biodiversity Conservation Act 1999*

The Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) requires the approval of the Commonwealth Government for actions that may have a significant impact on matters of national environmental significance, including threatened species and ecological communities. When there is a potential impact on a matter of national environmental significance that may occur as a result of a proposed action, the significance of that impact must be assessed.

The proposed development was referred under the EPBC Act (referral Ref: 2019/8486). The decision of the referral was that the proposed action, being the subdivision of land under this proposal, is not a controlled action.

#### 3.2 NSW Legislation

The following NSW legislation applies to the proposal:

*Environmental Planning and Assessment Act, 1979*

*Biodiversity Conservation Act, 2016*

*National Parks and Wildlife Act 1974*

*Rural Fires Act, 1997*

*Water Management Act, 2000*

The relevant legislation is discussed in relation to the specific assessment trigger below.

#### 3.3 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:

##### **Section 4.15(a)(i) the provisions of any environmental planning instrument**

#### State Environmental Planning Policies

The environmental planning instruments that apply to the development are:

- *State Environmental Planning Policy (State and Regional Development) 2011*
- *State Environmental Planning Policy No 55 - Remediation of Land*
- *State Environmental Planning Policy (Infrastructure) 2007*
- *State Environmental Planning Policy (Koala Habitat Protection) 2021*

#### State Environmental Planning Policy (State and Regional Development) 2011.

The proposal is characterised as Regional Development in Schedule 7 being development with a capital investment value over \$30 million.

## **State Environmental Planning Policy No 55 - Remediation of Land.**

The site is potentially contaminated for the purpose of the SEPP. A Contamination Assessment has been carried out by Douglas Partners, detailing the review of existing reports, results of the site inspection visit and assessing the need for further field-based environmental investigations or remediation works.

Previous contamination reports, remedial actions plans and site audit statements provided with the application indicate that there is significant land contamination at the site from past mining and agricultural activities. Several data gaps were noted in these reports, and Environmental Health requested additional information from the applicant on 11 May 2020.

### **Comment**

Environmental Health has reviewed the following document that was submitted in response to this request for information.

*Report on Updated Contamination Assessment, Douglas Partners, September 2020*  
(doc ref 88224.06.R.001.Rev1)

This document was read alongside other contaminated land documents provided with the application.

Douglas Partners conducted an additional review of previous studies and reports for the site. Douglas Partners notes the findings and recommendations made in previous reports, including remedial actions plans (RAP) are against the NEMP 1999, and did not reflect the changes made in 2013. Douglas Partners supports the recommendations made in previous RAPs (which were found suitable by a site auditor), but notes that they need to be updated to reflect regulatory changes.

Douglas Partners also conducted additional site visits and sampling in July 2020. These site assessments uncovered an additional mine and limekiln, which are located in the proposed residential areas. Samples collected exceeded residential health investigation levels (HIL) and environmental investigation levels for heavy metals including zinc, cadmium and lead. As part of the assessment of HILs, Douglas Partners assess results from past sampling against the newer 2013 NEPM HILs. Exceedances of contaminants is consistent with previous reports, but adjustments have been made to account for revised plans that include more public open space (opposed to residential).

Sites assessments by Douglas Partners also found fragments of cement sheeting that contain bonded asbestos. Douglas Partners considers the human health risk from the bonded asbestos sheeting to be minimal and that their removal can be managed through a construction environmental management plan (CEMP).

Douglas Partners recommendations following the July 2020 site assessment, report review and comparison of previous results/recommendations against NEPM 2013 can be summarised as:

- The RAP prepared by Coffey (June 2010) should be updated to reflect regulatory changes and include remediation and management details for the additional mine site (AEC4), limekiln (AEC 5) and areas surround sample RE34 (located in proposed residential area).
- The RAP prepared by Coffey (December 2009) should be updated to reflect changes in regulatory framework and legislation
- Remediation, validation and management detailed in the updated RAPs should be implemented. Where necessary site environmental management plans should also be implemented.
- A CEMP with unexpected find protocol should be prepared and implemented to manage waste across the site and potential areas of contamination outside the areas identified in the submitted reports.

- All waste soil and rock that is transported off site should be assessed in accordance with relevant waste classification legislation.

Douglas Partners stands by previous recommendations that areas of mine site 3 and 4 are not suitable for residential development, and that access to these areas is unsafe and should be restricted until remediation.

Environmental Health considers that an extensive review of previous reports has been carried out by Douglas Partners, and additional considerations for the age of these reports has been addressed. In response to the request for additional information Douglas Partners has uncovered two additional areas of environmental concern that need to be amended into the existing RAPs for the site.

The site audit statement (Environmental Strategies 2010) concluded that following remediation outlined in Coffey 2009 and 2010 RAPs the site could be made suitable for the following uses:

- Residential with accessible soil, including garden (minimal home-grown produce contributing less than 10% fruit and vegetable intake), excluding poultry;
- Day care centre, preschool, primary school;
- Secondary school; and
- Park, recreational open space, playing field.

Remediation, validation and management of the site could be controlled through the following conditions:

- Prior to Construction Certificate – submit revised RAPs that address recommendations made by DP
- Prior to Occupation Certificate – submit validation reports for remediation that state that site is suitable for the proposed use

Because of the extensive nature of contamination at the site, it is also recommended that a Site Audit Statement for all remediation and validation reports be submitted prior to Occupation Certificate. Remediation involves the excavation of contaminated soil so will likely be carried out with construction and bulk earthworks.

## **State Environmental Planning Policy (Infrastructure) 2007**

### **Clause 102 – Impact of road noise or vibration on non-road development**

This clause applies to residential development on land in or adjacent to the road corridor for a freeway, a tollway or a transitway, or any other road with an annual average daily traffic volume of more than 20,000 vehicles.

Clause 102 (3) states:

“If the development is for the purposes of a building for residential use, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:

- (a) in any bedroom in the building – 35 dB(A) at any time between 10 pm and 7 am,
- (b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway) – 40 dB(A) at any time.”

Road traffic noise modelling was undertaken for the proposed development to determine the impact of the traffic noise on the lots adjoining EDE.

The assessment found that allotments which are next to EDE are likely to be “noise affected” by traffic.

The assessment concluded that, to achieve the internal traffic noise criteria, specific acoustic treatments would not be required for any conventionally-constructed dwelling on any

allotment, other than closed windows to habitable rooms for a small number of allotments, which subsequently impacts on ventilation requirements to those rooms. Precise building constructions can be determined by way of a specific road traffic noise intrusion assessment or it would be acceptable to use the Category 1 “deemed-to-satisfy” constructions based on the DoP Guideline.

### **Schedule 3 Traffic-generating development to be referred to Roads and Maritime Services**

The development involves the subdivision of land for more than 200 allotments and includes the opening of public roads and therefore requires the concurrence of TfNSW.

The proposal was referred to TfNSW in December 2019. In correspondence dated 11 February 2020, TfNSW confirmed that, while the proposal would generate additional traffic, it was satisfied that the proposal would not have a significant impact on the state road network.

### **State Environmental Planning Policy (Koala Habitat Protection) 2021**

The State Environmental Planning Policy (Koala Habitat Protection) 2021 (Koala SEPP) applies to the Queanbeyan Palerang Local Government Area. The Koala SEPP has been addressed on the Biodiversity Development Assessment Report (BDAR) prepared by Capital Ecology to support the DA.

The subject land and wider study area was found to support habitat species listed in Schedule 2 of the Koala SEPP classifying it as potential koala habitat. The report notes that four sightings of koala have been made in timbered area north of site. The site itself is has been cleared (approximately 89%) and the remaining vegetation with midstorey and shrubstorey largely absent. There have been no sightings of the koala in any of the targeted surveys undertaken at rezoning or development proposal stage.

The Capital Ecology Report concludes that the degraded vegetation and lack of koala observations indicates that the subject site should not be classified as ‘highly suitable habitat’ or ‘core habitat’ for the purpose of the Koala SEPP.

Council is satisfied that the development is unlikely to have an impact on koalas or koala habitat.

### **Queanbeyan Local Environmental Plan 2012**

The relevant environmental planning instrument is the Queanbeyan Local Environmental Plan 2012 (QLEP 2012).

#### ***Aims of the QLEP2012 (clause 1.2)***

The proposed development is consistent with the broad aims of the QLEP2012.

#### ***Permissibility***

The site is zoned Part E2 Environmental Conservation, Part E4 Environmental Living and Part RE1 Public Recreation as depicted in **Figure 4** below. Subdivision is permissible with consent subject to clause 4.1 relating to minimum lot size. The development is largely contained to the E4 Environmental management zone with the exception of the six (6) large lots in the north east of the site.

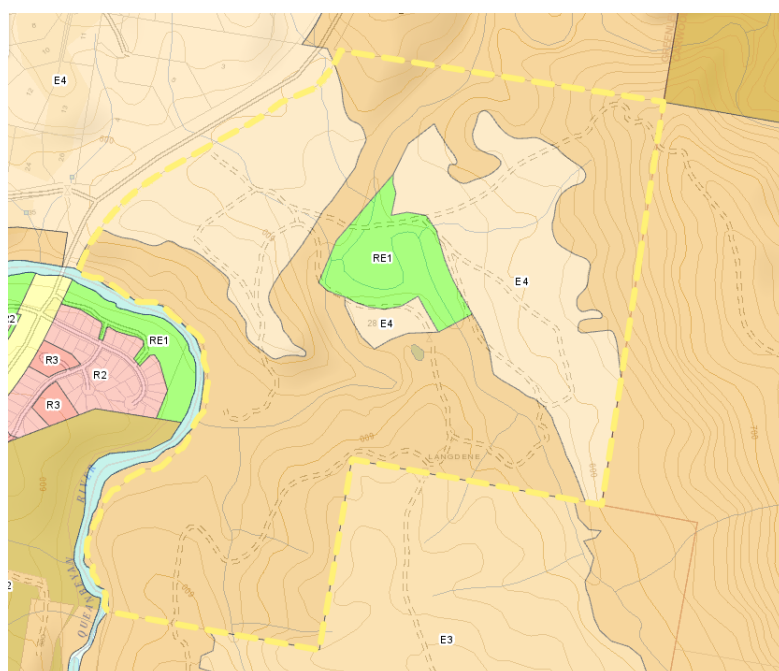
### **Objectives of the zones**

The urban development is contained within the E4 Environmental Living zone. Development density is controlled by lot size and the proposal responds with lot sizes within both the 600m<sup>2</sup> MLS area and 800m<sup>2</sup> MLS area that are typically 50-70m<sup>2</sup> larger than the respective MLS. The consistency of the proposal with the objectives is summarised as follows:

E4 Environmental Living Objective	Consistent
To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.	yes
To ensure that residential development does not have an adverse effect on those values.	yes
To encourage development that is designed to recognise the bushland character of the locality where appropriate and to minimise the impact of urban development, particularly on the edge of the urban area.	yes
To ensure that rural residential development provides for integrated rural residential communities in its design.	yes

The E2 Environmental Conservation zone and RE1 Public Recreation zoned land is proposed to be dedicated to council in a staged manner following remediation and landscaping as outlined under the VPA.

**Figure 4 Land Use Zones**



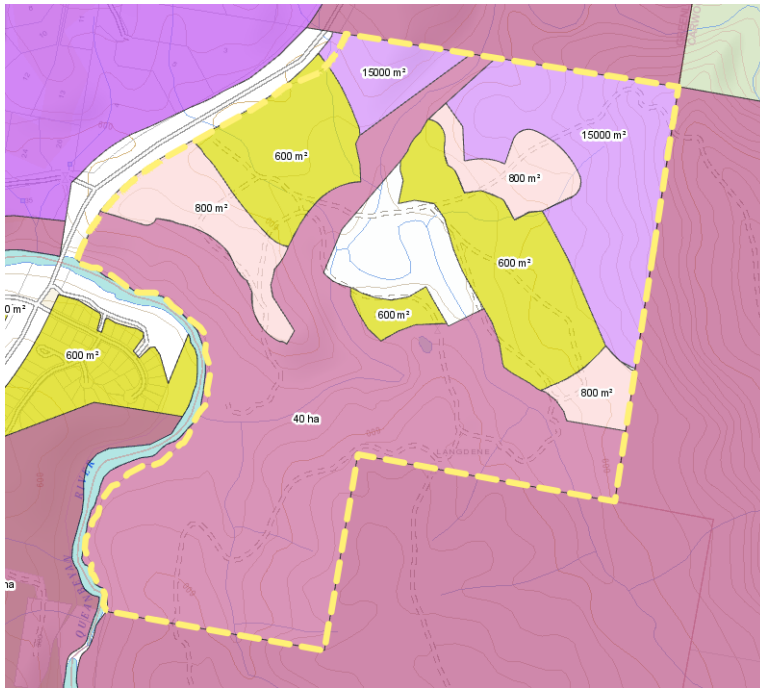
Source: NSW Planning Portal eSpatial Viewer

### **Minimum Lot Size**

The minimum lot size varies across the site from 600 m<sup>2</sup>, 800 m<sup>2</sup>, 1.5 ha and 40 ha (Figure 5). The general arrangement of the subdivision responds to the changing minimum lot size across the site.



**Figure 5 Minimum Lot Size Map**



Source: NSW Planning Portal eSpatial Viewer

The proposal includes 17 lots that are burdened by two minimum lot sizes. In 14 instances, the area of the lot aligns with the larger of the two lot sizes applicable to the land. For example, Lot 305 has a minimum lot sizes 600m<sup>2</sup> and 800m<sup>2</sup> applicable, but the area of the lot is 1017m<sup>2</sup>.

In three cases, the area of the proposed lot is less than the larger of the two minimum lot sizes but still greater than the lessor of the minimum lot size applicable to the land.

- Lot 306 – MLS 600m<sup>2</sup> and 800m<sup>2</sup>. Area of proposed lot 759m<sup>2</sup>.
- Lot 120 – MLS 800m<sup>2</sup> and a very small area of 20ha. Area of proposed lot 972m<sup>2</sup>.
- Lot 121 - MLS 800m<sup>2</sup> and a very small area of 20ha. Area of proposed lot 960m<sup>2</sup>.

As noted, clause 4.1 deals with minimum lot size. Subclause (3) states:

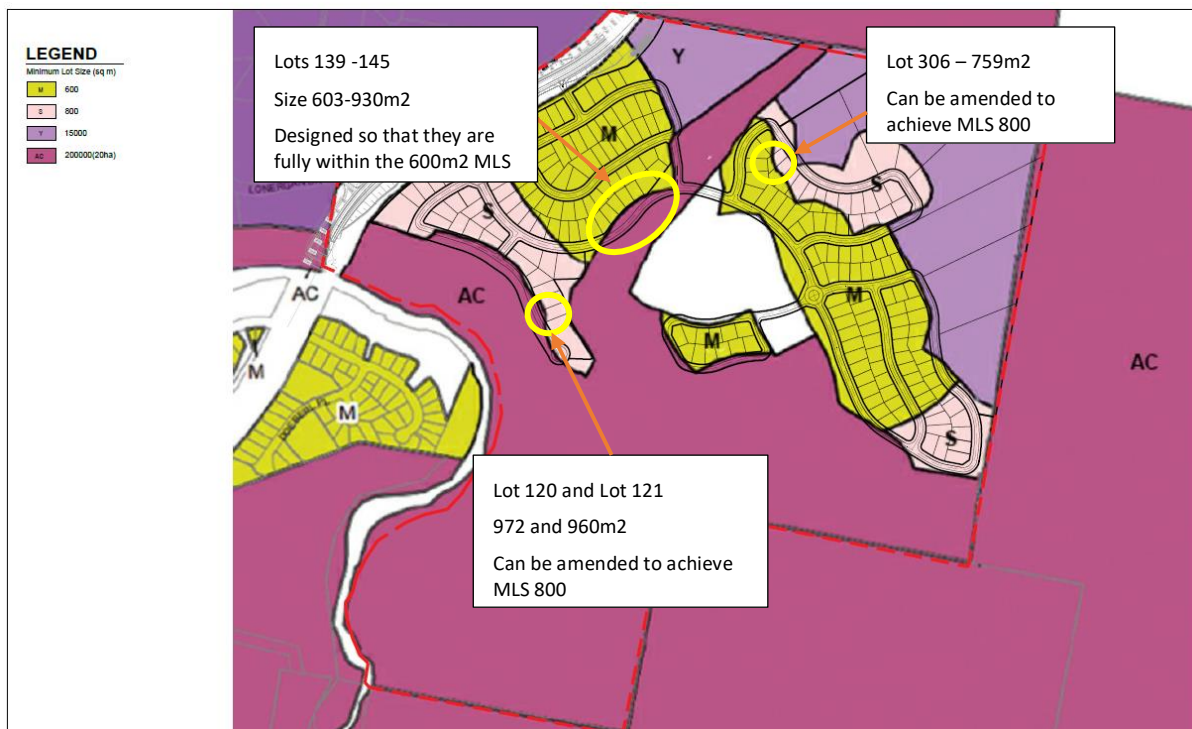
(3) The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land.

This provision is subject to interpretation and the rule of statutory interpretation would suggest that the two lot sizes would be considered plural, therefore both applicable. The use of Clause 4.6 is not available given the zone and the variation being sought in relation to the Lots 120 and 212 which include the 20ha MLS.

Lot 306 can be amended to achieve the maximum of the two minimum lot sizes.

Lots 120 and 121 will need to be pulled back away from the road in a manner similar to that of Lots 139 -145 on Road 001. This will place them fully into the 800m<sup>2</sup> MLS and consistent with the provision of the LEP.

**Figure 6 Minimum Lot Size Map over Proposed Layout**



Source: Spiire, 2019.

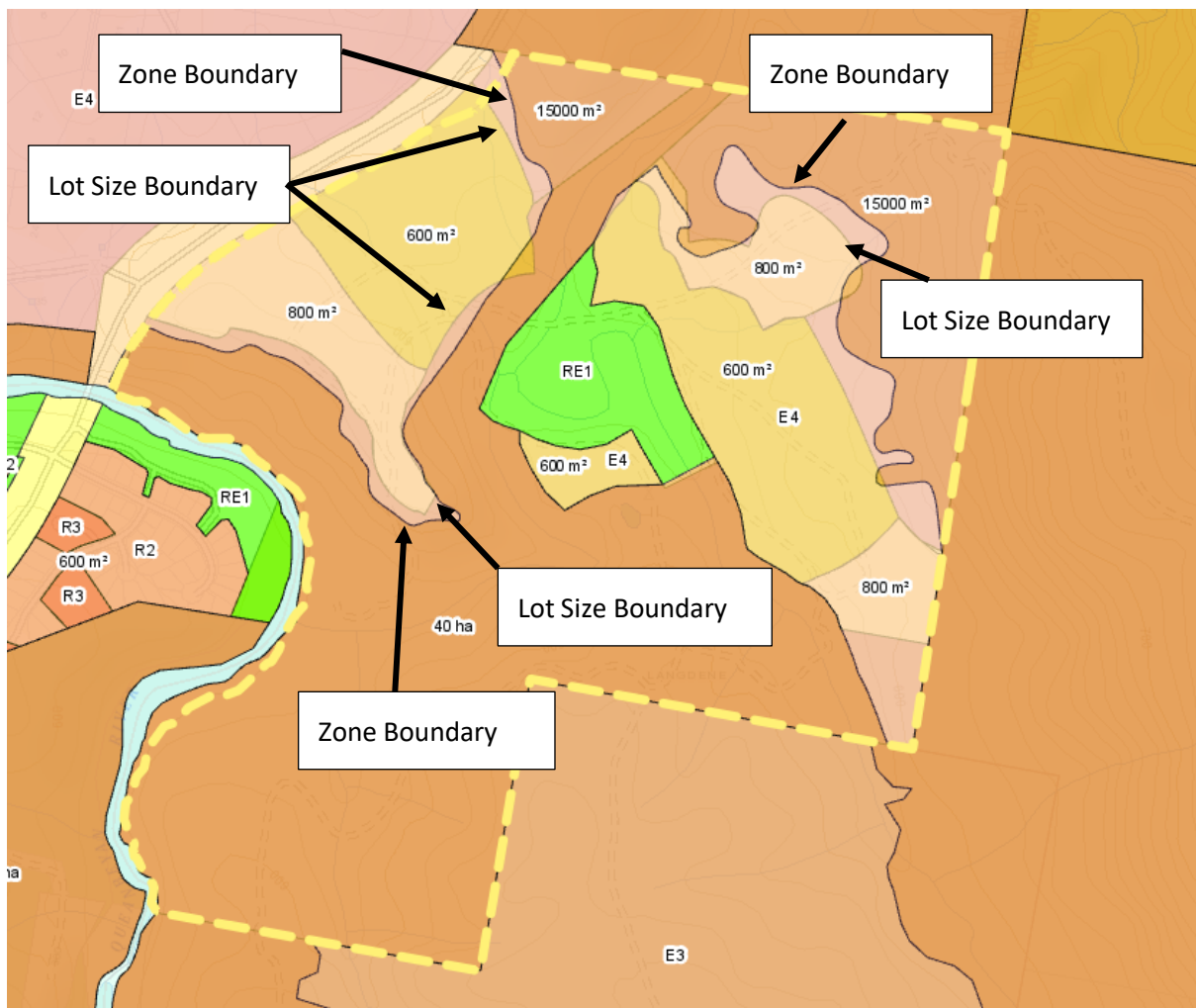
By way of interpretation, it appears that the intention of the draftsman in this case is that the urban areas follow the alignment of the E4 Environmental Management zone along the boundary of a concept plan included in a planning proposal and are either 800m<sup>2</sup> or 600m<sup>2</sup> allowing of site topography and environmental constraints. This is further evidenced by the alignment of Height of Buildings Maps that align with the zone, rather than lot size.

The zone and minimum lot size maps have been drafted based on two slightly different concept plans at planning proposal stage. When first published, the zone and lot sizes across this site were much more closely aligned. The subsequent development application reflects the intended outcome of the instrument in all manner but for the two anomalies noted above. The drafting has been further complicated by the change from zone and lot size maps produced in static PDF form and the availability of the ePlanning Spatial Data in the Planning Portal. The challenges for the subdivision of the site are highlighted in the following figure showing the alignment of zone and lot size controls.

For the purpose of this assessment, this has been viewed as a drafting anomaly however, it is likely that applying the rule of statutory interpretation the maximum lot the minimum of the two lots sizes would likely need to be met to comply with the LEP. Absent the ability to apply clause 4.6, or an amendment to the LEP, the subdivision plan will need to be amended to ensure that the lots meet the MLS.



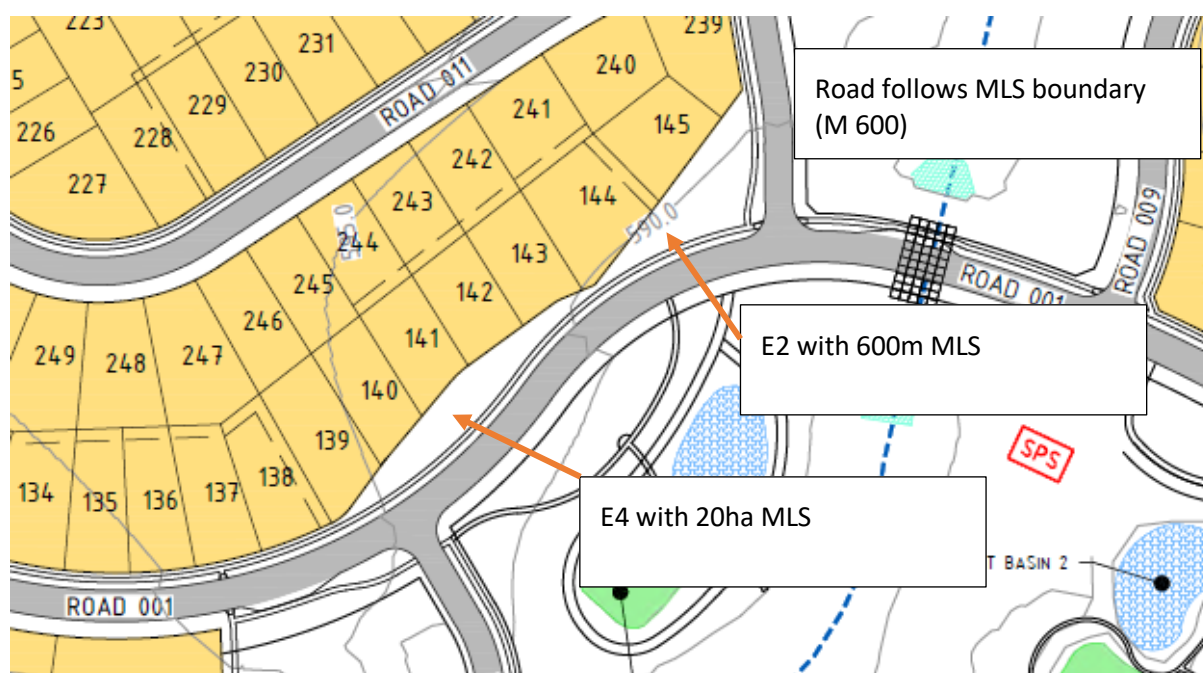
**Figure 7 Alignment of Lot Size and Zone Controls**



Source: Spatial Viewer, NSW Planning Portal, 2021

In addition to the lots that have split minimum lot sizes as noted above, Lots 139-144 are irregular in shape, with an unusually wider road verge, presumably to avoid an incidence of a split minimum lot size. These blocks are also zoned E4 Environmental Living with a 600m<sup>2</sup> minimum lot size. It is not inconceivable that, if the landowners do not choose to fence the front of their properties, in favour of an alignment established by lots 136-138 and 144-145 the divide between property boundary and road reserve will be indistinguishable (refer **Figures 6-8**). The result is an unnecessarily wide verge that will be traversed by seven driveways up to 17m long before they reach the property boundary. If the lots are left unfenced, a likely outcome is that the front yards will encroach on the verge. A better design outcome would be to accept the anomaly between the zone and lot size and enable lots to directly front the road. This can only be rectified by an amendment to the LEP.

**Figure 8 Irregular Alignment of lots fronting Road 001**



Source: Extract General Arrangement CA020 Rev B (edited)

## Other relevant provisions of the QLEP2012

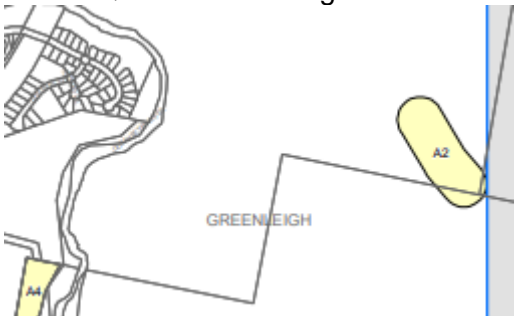
### ***Part 4 Principal development standards***

The principles development standards applicable to the application are addressed in the following table.

Clause	Consistent/Comment
4.1 Minimum subdivision lot size	Yes. As noted above, 17 lots are subject to split MLS but achieve the maximum lot the two MLS. Lots 306, 120 and 121 will need to be amended to satisfy the MLS
4.3 Height of buildings	N/A. The application is for subdivision, however, one of the submissions raised the issue of the suitability of an 8.5m HOB. The HOB is consistent across all the urban areas. Further HOB aligns with the zone, rather than lot size maps.

### **Part 5 Miscellaneous provisions**

The relevant provision of Part 5 of the QLEP 2012 are addressed in the following table.

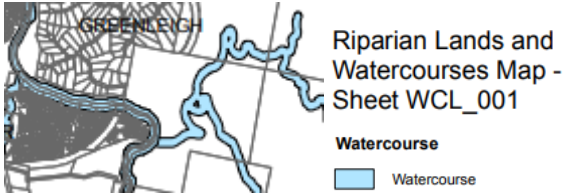
Clause	Consistent/Comment
<p>5.10 Heritage conservation</p> <p>The clause applies to the listed Item and Aboriginal sites.</p> <p>(7) Archaeological sites</p> <p>(8) Aboriginal places of heritage significance</p>	<p>The DA was referred to Council's Heritage Advisor for comment.</p> <p>Machiori's Lime Kiln and Quarry have been listed on the QLEP2012 heritage schedule as Item A2.</p>  <p>The Item is outside of the development area, however, within the residential land proposed to be dedicated to Council. The application does not provide any detail as to the item. The site was inspected by Council staff and given the proximity to the Stage 3B, it is recommended that the applicant provide a fence along the north and north eastern perimeter of the site to protect it from construction impacts during Stage 3B construction works.</p> <p>The applicant should provide Council with a Conservation Plan for the site prior to the dedication of the land following the completion of all works.</p> <p>The land has known Aboriginal sites which require an Aboriginal Heritage Impact Permit (AHIP) under section 90 of the National Parks and Wildlife Act, 1974.</p> <p>Following a protracted period of consultation between DPIE and subsequently Heritage NSW (who is now the consent authority for the AHIP), a revised Aboriginal Cultural Heritage Assessment Report (ACHAR) was prepared by Navin Officer Heritage Consultants and provided to Heritage NSW. The report identifies that 21 of the 25 sites will be totally harmed and 11 subject to limited harm as a result of the development.</p> <p>General Terms of Approval have been provided 13 July 2021 which require the preparation and approval of an AHIP prior to the commencement of works on the site.</p>

Clause	Consistent/Comment
<p>5.16 Subdivision of, or dwellings on, land in certain rural, residential or environment protection zones Applies to the E2 and E4 zones when application is for subdivision.</p> <p>(4) The following matters are to be taken into account—            (a) the existing uses and approved uses of land in the vicinity of the development,            (b) whether or not the development is likely to have a significant impact on land uses that, in the opinion of the consent authority, are likely to be preferred and the predominant land uses in the vicinity of the development,            (c) whether or not the development is likely to be incompatible with a use referred to in paragraph (a) or (b),            (d) any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c).</p>	<p>Yes. In considering sub-clause (4) it is noted that the site has not been developed. The land immediate north, south and east is E2 and heavily vegetated. The zones applicable to the site have regard to the adjoining land and the E4 zoned land is buffered by E2 zones, minimising the potential impact of any development of the site on adjoining land.</p> <p>Council is satisfied that clause 5.16(4) has been considered and that the proposal will not impact any existing approved use of the land.</p>
<p>5.21 Flood planning</p> <p>New provision that came into effect across NSW in July 2021. Applies to land that council considered to be in the flood planning area. Requires council to consider:            (a) the impact of the development on projected changes to flood behaviour as a result of climate change,            (b) the intended design and scale of buildings resulting from the development,            (c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,            (d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.</p>	<p>The flood planning area defined in the Queanbeyan Floodplain Risk Management Study and Plan (dated December 2020) as:            FPA - The area inundated in the FPL. The FPL is the 1% AEP plus 0.5m freeboard.            The referral response from Councils Development Engineer noted that, at the time that the DA was finalised and lodged, the Queanbeyan Floodplain Management Study and Plan had not been finalised and therefore, the development assessment was based on the advice provided to the applicant by Council at that time.            The adopted FPL is 1% AEP plus 0.5m freeboard. The development does not include an sensitive land uses and each lot will be able to accommodate a dwelling above the FPL. The PMF relative to the site is 585.2 AHD, therefore no regions of the development will be subject to flooding of the Queanbeyan River. Further, the PMF has not historically been used to control development, however, if considered in this case then access and egress to all lots and road will be maintained in a PMF.</p>


## Part 7 Additional Local Provisions

The relevant provision of Part 7 of the QLEP 2012 are addressed in the following table.

Clause	Consistent/Comment
<p>7.1 Earthworks</p> <p>(3) Before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters—</p> <p>(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,</p> <p>(b) the effect of the development on the likely future use or redevelopment of the land,</p> <p>(c) the quality of the fill or the soil to be excavated, or both,</p> <p>(d) the effect of the development on the existing and likely amenity of adjoining properties,</p> <p>(e) the source of any fill material and the destination of any excavated material,</p> <p>(f) the likelihood of disturbing relics,</p> <p>(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,</p> <p>(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development,</p> <p>(i) the proximity to and potential for adverse impacts on any heritage item, archaeological site, or heritage conservation area.</p>	<p>Yes. The application includes earthworks and grading. Details have been provided in the Civil Report and accompanying drawings.</p> <p>The report notes the balance of cut-fill is 274,000m<sup>3</sup> imported fill.</p> <p>The majority of the site incorporates cut/fill of 1-2m.</p> <p>It is also noted that a significant fill is necessary at Road 002 to accommodate the proposed level of EDE (already established). Road 003 has been graded to 14% within but close to the threshold of the QPRC D1 standard.</p> <p>The nature and extent of earthworks have been considered by the Council Development Engineer and Council is satisfied that appropriate measures have been taken to minimise cut/fill and ensure that the proposal provides grading aligned with the management and flow of water through the site.</p>
<p>7.3 Terrestrial biodiversity</p> <p>Refer to the Terrestrial Biodiversity Map</p> <p>Need to consider impact on biodiversity and measure to mitigate impacts 7.3(3) and be satisfied that the development will avoid minimise or mitigate impacts 7.3(4).</p>	<p>A BDAR has been prepared by Capital Ecology to identify Plant Community Types (PCTs) and assess the impact of the development on ecological communities.</p> <p>The site is highly disturbed (73%) by historical land use; mining, quarrying and agriculture.</p> <p>However, two PCTs have been identified – PCT1093 – Red Stringybark – Brittle Gum – Inland Scribbly Gum dry open forest of the tablelands, South Eastern Highlands Bioregion. PCT1334 – Yellow Box grassy woodland of the Northern Monaro and Upper Shoalhaven area, South Eastern Highlands Bioregion.</p>

Clause	Consistent/Comment
	<p>PCT is listed in the Biodiversity Conservation Act, 2016 (BC Act) as a potential threatened ecological community (TEC) <i>White Box Yellow Box Blakley's Red Gum Woodland</i> (Box Gum Woodland).</p> <p>The assessment by Capital Ecology confirmed that the vegetation in zones 1 and 2 meet the criteria for a TEC the clearing of which would generate ecosystem credits (refer below). Council is satisfied that the BDAR prepared by Capital Ecology sufficiently addresses cluse 7.3 and retirement of credits will offset the impact of the development.</p> <p><u>The proposed change to the layout to exclude the large residential lots will likely impact that vegetation impact and require a recalculation of the credit offset liability.</u></p>
<p>7.4 Riparian land and watercourses The site includes land mapped as riparian.</p>	<p>Riparian land is wholly within the E2 zone and will be included in land dedicated to Council under the VPA.</p>  <p>No urban development is proposed to occur within riparian zones, however, the proposal includes enhancement and rehabilitation of Jumping Creek and Valley Creek, stabilisation works and crossings. A Vegetation Management Plan has been prepared (and included in the VPA) to guide restoration and includes weed management.</p> <p>The impact on riparian zones requires controlled activity approval from the Natural Resources Water Regulator (NRAR). The proposal was refereed to NRAR and General Terms of Approval have been provided.</p> <p>Council has considered the impact of the development on the degraded watercourses across the site as positive and satisfied that clause 7.4 has been addressed.</p>
<p>7.5 Scenic Protection The site includes a small area of land maps as scenic protection in the north eastern corner of the site.</p>	<p>The area that coincides with the land mapped as scenic protection is the high pot of the property and zoned E2 Environmental Conservation and not proposed to be developed for housing under the proposal.</p>



Clause	Consistent/Comment
	 <p>Scenic Protection Map - Sheet SCP_001</p> <p>Scenic Protection</p> <p>Scenic Protection Area</p> <p>The Visual Assessment provided confirms that the development building height will not impact the scenic protection area.</p>
<p>7.9 Essential services</p> <p>Need to be made available when required.</p>	<p>The Civil Report and Drawings Package includes the detail in relation to essential services. Council is satisfied that adequate arrangements have/can be made for the supply of essential services to the development when required.</p>
<p>7.12 Access to Jumping Creek</p> <p>(1) The objective of this clause is to ensure that vehicular access to and from Jumping Creek is provided by the Edwin Land Parkway—Ellerton Drive extension.</p> <p>(2) Applies to Lot 5, DP 1199045, 28 Lonergan Drive, Greenleigh, otherwise known as “Jumping Creek”.</p> <p>(3) Development consent must not be granted for development on land to which this clause applies unless the consent authority is satisfied that vehicular access to and from Jumping Creek will be provided by the Edwin Land Parkway—Ellerton Drive extension.</p>	<p>Note that the Lot and DP has been amended and the provision should now refer to Lot 1 DP 1249543.</p> <p>Vehicle access has been provided between the development and the EDE.</p> <p>Council is satisfied that this clause has been addressed.</p>

## Biodiversity Conservation Act, 2016

The DA was accompanied by a BDAR. The BDAR was prepared by Capital Ecology applying the BAM methodology.

It is noted that the BDAR was prepared to include the loss of vegetation as a result of the creation of building envelopes for the 6 larger lots in Stage 3 (now proposed to be omitted from the development) and associated APZs. The following areas of impact, therefore include those lots.

- 1.48ha of PCT1039 Zone 1- moderate to high diversity intact remnant vegetation (BC Act native vegetation)
- 2.93 hectares of PCT1093 Zone 2 - moderate to high diversity vegetation which lacks an overstory (BC Act native vegetation)
- 0.85ha of PCT 1334 Zone 1 - moderate to high diversity intact remnant vegetation (BC Act native vegetation, BC Act Box-Gum Woodland)

- 1.98 hectares of PCT1334 – Zone 2 - native overstory with a low diversity exotic ground layer (BC Act native vegetation, BC Act Box-Gum Woodland)
- Four hollow bearing trees and
- One termite mound

The development with the large lots will result in the clearance of 7.24 ha of native vegetation listed under the Act, 2.38ha of which meets the listing criteria for Box Gum Woodland. However, given the fragmentation and condition and area of vegetation, it was found not to constitute a Serious and Irreversible Impact (SII).

The development will not impact any species credit species listed in the BC Act.

An addendum to the BDAR has been provided by Capital Ecology which provides an assessment of the offset requirement minus the 6 large lots.

The offset requirements have been calculated as follows:

- PCT1093 Zone 1 - clearance of 0.64 hectares which generates 13 ecosystem credits
- PCT1334 Zone 1 - clearance of 0.85 hectares which generates 26 ecosystem credits
- PCT 1334 Zone 2 - clearance of 1.98 hectares which generates 39 ecosystem credits

The offset requirement has been accommodated in the conditions of consent.

#### **Section 4.15(1)(a)(ii) the provisions of any proposed instrument**

Council has prepared a Draft Comprehensive Local Environmental Plan. This instrument will bring together the five separate Queanbeyan Local Environmental Plans and the Palerang Local Environmental Plan 2012 and Yarrowlumla Local Environmental Plan 2002. The plan is administrative in intent. While there are amendments to land use tables that may impact the range of land uses in certain zones, it does not prohibit the subdivision of the subject land or alter minimum lot sizes.

#### **Section 4.15(1)(a)(iii) provisions of any development control plan**

The Queanbeyan Development Control Plan 2012 applies to the development. The two relevant sections are Part 2 – All Zones and Part 5 Rural, Environmental and Large Lot Residential Zones, in particular the controls relating to subdivision. Further, the DCP refers to the requirement to address the Councils Engineering Design Standards.

An assessment of the proposal against the relevant DCP controls is provided in section 5.3 of the Statement of Environmental Effects prepared by Space Lab. The proposal is generally consistent with the DCP with only minor variation. Discussion regarding the variations sought to specific controls is outlined below:

### **Part 5.2 Subdivision**

#### **5.2.1 Roads must be designed in accordance with Council Engineering Design Specification.**

The assessment by the Development Engineer found that the proposal includes variations to these requirements. The following comment has been provided from the Development Engineer.

Internal Road Network:

The internal road network consists of only two road types according to Council's QPRC Design Specification D1 – Local Streets and Collector Streets. Because Local and Access streets have the same physical carriageway dimensions, the only difference is in the design speed (i.e. changes in curve geometry).



The Developer has asserted that all streets that would normally be classified as Access Streets have been designed to comply with the design speed of Local Streets and therefore, be classified as such. Road 001 is intended to be the only Collector Street (and bus route) and all remaining streets will therefore fall into the category of Local Streets. All roads within the subdivision have a 1.5m wide footpath located in one of the verges as per requirement from D1. It is generally thought that this arrangement is satisfactory in principle, including the use of Road 001 as a Collector road for bus routes up to the roundabout at intersection with Roads 12 & 13 (noting that proposed bus stops are within a 400m radius of all but four lots which is acceptable). However, there have been some proposed deviations from QPRC's D1 Specification which are summarised below:

1. Road 001 does not meet the width requirements for a Collector Street as specified in D1. Collector Streets should have a pavement width of 11.2m. This is the minimum standard for bus routes under D1. Road 001 is proposed to be 9m in width and utilise indented bays for bus stops. From the provided turning paths in the civil plans, it would appear that if Council accept Road 001 as proposed, then we will need to impose no on-street parking as the street becomes too narrow for two way traffic (with buses) whilst cars are parked on both sides of the road. In its current form, this is unacceptable as it fails to provide adequate on-street amenity for parking.
2. D1 stipulates minimum verge widths of 5m. The Developer Proposes to utilise 4m verges in a few locations where there is no private property frontage (parts of Roads 003, 009, 011 & 012). It is Development Engineering's understanding that this deviation to specification is likely to be approved subject to the verge areas in question being able to satisfactorily contain any required services.
3. The submitted civil engineering report states that despite D1 requiring cul-de-sac turning heads of minimum 15m diameter, they believed this to be excessive. The report proposes to adopt 12.5m turning heads stating that service vehicles could perform three-point turns and that this was a satisfactory arrangement. This is not a satisfactory arrangement and compliance with D1 is required.
4. Road 001 does not comply with the minimum Vertical Curve (VC) radius requirement at intersections as stipulated by D1 for Collector Streets. The fact that Road 001 is the main road through the new development and is also the proposed bus route, it needs to be classified as a Collector Street (road width arguments as per point 1 above aside) and should therefore comply with the minimum VC of 12m at intersections. The current proposal has a VC of 10m at the intersection with EDE. This should be amended prior to the Subdivision Works Certificate application.
5. Following on from Point 4 above, as a Collector Street, Road 001 should also have adopted a design speed of 50km/h rather than the stated 40km/h in the civil plans. As this may have implications for geometry of the road, this should be amended accordingly.

#### Part 5.3 Design Principles for Subdivision

5.3(l) fencing – the DCP requires that stock proof fencing shall be provided to all boundaries. Given the urban residential nature of the subdivision, variation to this standard is considered acceptable.

**Section 4.15(1)(a)(iia) 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**

The applicant has made an offer to enter into a VPA for the development. The VPA was considered by Council 8<sup>th</sup> September and Council resolved to exhibit the agreement for a period of 28 days. The VPA will enable the completion of works within the riparian zones and open space prior to dedication of land to council.

The draft VPA proposes to be in lieu of any contributions otherwise required to be paid under section 7.11 and 7.12.

**Section 4.15(1)(a)(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph)**

The *Environmental Planning and Assessment Regulation 2000* prescribes several matters in respect to the determination that are addressed in the conditions attached to this report.

**Section 4.15(1)(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**

As demonstrated by the assessment, the development is unlikely to have any unreasonable adverse impacts on either the natural or built environments, or the social and economic conditions in the locality.

**Natural Environment**

The significant natural attributes of the site have been largely protected under the E2 Environmental Conservation zone. Development with these areas is focused largely on the restoration and rehabilitation of the riparian zone and revegetation.

The proposal includes the removal of 7.24ha (to be reassessed refer discussion above) of native vegetation and the removal of 44 trees, including;

- 6 high value (four hollow bearing) – mature, little or no epicormic shoots
- 15 medium value – mature, evidence of limb fall, common species, dieback often evident, epicormics may be common
- 17 poor value – poor quality tree, significant dieback, short life expectancy
- 1 dead tree
- not assessed

A Tree Management Plan was prepared and considered by Council's Tree Officer who recommended that Tree 36 *Eucalyptus melliodora* (at the rear of proposed Lot 306 refer Tree Management Plan Drawing TMP3 extract below) being of High Value, be retained and this has been included in as a condition.

Matters relating to the riparian corridor, land contamination and flooding and have been addressed in the assessment of the DA.

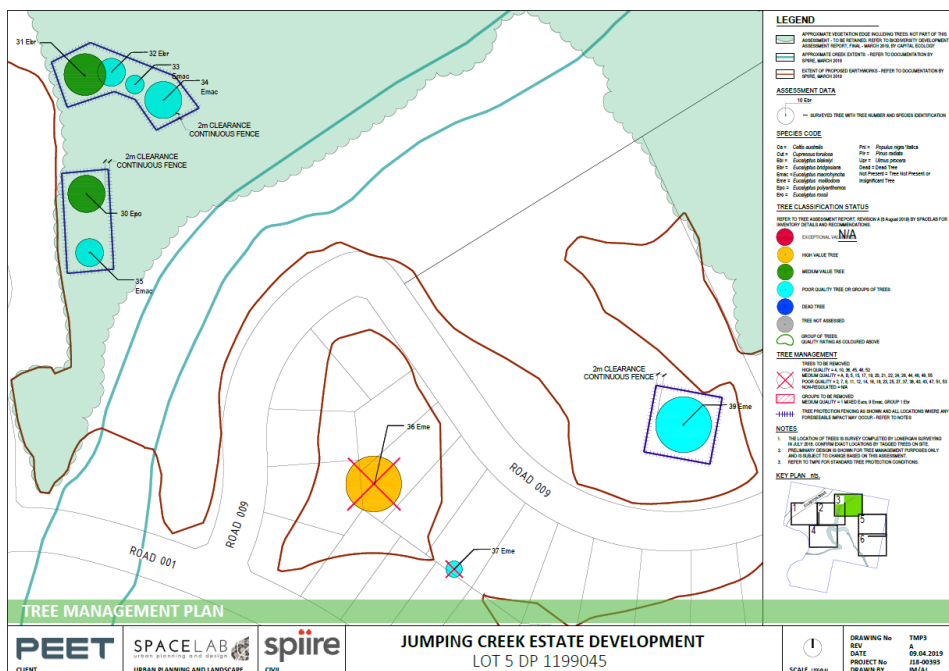
The development is not likely to have any long term adverse impacts on the natural environment and conditions of consent are recommended to minimise impact to the natural environment and improve the environmental value of the site as a whole.

**Landscaping**

The proposed development incorporates the following elements:

In addition, a Vegetation Management Plan has been prepared for the E2 land to be dedicated to Council under the VPA.

**Figure 9 Tree 36 to be retained**



Source: Extract Tree Management Plan Drawing TMP3

## Traffic Impacts

A Traffic Assessment was undertaken by AECOM and included in the Civil Report accompanying the development application.

The report includes an analysis of the estimated traffic generated by the development along with estimated through traffic on EDE to assess the functionality of both intersection from a safety and Level of Service (LOS) perspective.

The total estimated average daily traffic generated by the development is 2330 VPD. This was based on the accepted rate of 10 movements per residential lot per day as specified in D1.07.4. It is noted that the development has been revised to 218 residential lots now, though the traffic analysis remains unchanged making it a little more conservative.

There are two intersections proposed to EDE and AECOM have estimated that the likely split of intersection use would be 80% using the southern intersection and 20% using the northern intersection. It is asserted that the twin intersections are not needed from a traffic generation point of view. This will permit Council to condition the emergency only use of the northern intersection.

As noted previously, the DA was referred to TfNSW for comment and received no objection. A number of conditions have been proposed by the Council Development Engineer to ensure that the development is consistent with the relevant Design Specification.

#### Visual

A diagrammatic Visual Assessment was prepared by Spiire/Space Lab to support the proposal. Sight lines were taken from adjoining land from the south and east looking north and north west.

The assessment demonstrates that the visual impact of the development of the site for urban purposes, with an 8.5m maximum height of buildings is limited. Existing vegetation between the external line of sight and the development area will continue to mitigate the impact of the development.

The Visual Assessment highlights the scenic protection zone as (refer QLEP clause 7.5 above) and demonstrates the height of buildings will not interfere with or encroach on sight lines to the higher slopes protected under clause 7.5.

#### Noise

Transportation noise was assessed by SLR as a requirement of the Infrastructure SEPP (refer above). The report concludes that in relation to achieving the internal traffic noise criteria, specific acoustic treatments would not be required for any conventionally-constructed dwelling on any allotment, other than closed windows to habitable rooms for a small number of allotments, which subsequently impacts on ventilation requirements to those rooms.

It is noted that the precise building construction can be determined by way of a specific road traffic noise intrusion assessment or using the Category 1 “deemed-to-satisfy” constructions based on the DoP Guideline.

A road traffic noise intrusion assessment, incorporating noise reduction due to screening from houses/fences etc, may result in less onerous building constructions relative to the “deemed-to-satisfy” constructions, but can only be undertaken when building construction details (location, orientation, layout and window sizes) are known.

It was also noted that the Project site will not be subject to aircraft noise as defined in the Queanbeyan Local Environmental Plan 2012 (Part 7 Clause 7.7).

#### Bushfire

The development is mapped as bush fire prone and section 4.14 of the *Rural Fires Act, 1997* requires a Bushfire prone land assessment to be undertaken as part of the development. Concurrence is required from the RFS.

The development has been assessed in accordance with the matters for consideration under Section 4.14 (Consultation and development consent—certain bush fire prone land) of the *Environmental Planning and Assessment Act 1979*, and having regard to those matters, the following points are made:

- The proposal is integrated development with the NSW Rural Fire Services (RFS) as prescribed under the Rural Fires Act 1997, s100B.
- General Terms of Approval have been provided by the NSW RFS on the 27 May 2021.

It is noted that the lot numbering for the large lots referred to in the General Terms of Approval from RFS has since been update with the plans dated 28 June 2021. The lot references have been adjusted in the table below.

Original (RFS reference)	Proposed (in revised plan)
Lot 264	Lot 340
Lot 265	Lot 341
Lot 266	Lot 342
Lot 267 & Lot 268	Lot 343
Lot 450	Lot 462
Lot 451	Lot 463

The RFS conditions were reviewed and further clarification sought from RFS in relation to the intent of the requirement for a public perimeter road around the individual building envelopes for the large lots. The intention is asset protection and ensuring that the RFS can access the buildings and provide protection in a bush fire emergency. A number of options were considered. RFS had originally expressed a view that the large lots should be excluded and rather than work through a further referral process the amend the standard and terms of the public perimeter road, the applicant has agreed to omit the lots altogether at this stage. As a result, the General Terms of Approval remain in tact although condition 4 of the RFS approval now has no work to do.

#### Build Form

The proposal does not include any structures or dwellings, however, the arrangement lot lots and range of lot sizes will provide the opportunity for the area to develop in a low density environment.

#### Social Impact

The proposed development is considered likely to result in positive social impacts through the provision of open space and landscaping with development either side of a central public recreation area.

#### Economic impact

The proposed development will not result in any significant adverse impacts or negative economic impacts upon the locality or community. During the construction period the development will bring short-term employment opportunities to the local economy.

### **Section 4.15(1)(c) – The suitability of the site for the development**

The proposed development is considered to be responsive to the E4 Environmental Living zone and accompanying minimum lot sizes. The road layout responds to the environmental constraints, including bushfire risk and provides sufficient APZs to the developable areas. The subject site is considered to be suitable in its current state for the purposes of the proposed development.

### **Section 4.15(1)(d) Any submission made in accordance with this Act or the Regulations**

The DA was publicly exhibited for a period of 28 days in accordance with Council's policy. The exhibition period was from 29 May 2019 to 1 July 2019.

Eight submissions were received including one petition with 45 signatures.

The following issues were raised in the submissions and a comment by way of response has been provided below.

Issue	Response
Protection of environmental values including riparian corridors	Addressed in the report above. The proposal includes extensive remediation of degraded riparian zones and rehabilitation of both Jumping and Valley Creeks as part of the proposal. These areas are proposed to be dedicated to Council.
Size of lots	The Minimum Lot Size has been determined by the QLEP2012. The range of lot sizes is consistent with the minimum lot size and provides lot that are generally larger than the minimum.
Flooding and drainage (inc timing of the Queanbeyan Floodplain Risk Management Plan and Study)	It is noted that this study was not adopted ahead of the DA. However, the development is above the PMF and does not propose a risk to future residents. A Stormwater Management Plan addresses stormwater and drainage across the site. Conditions will be included in the consent to ensure that the commitments in the DA package are met.
Impact on water quality	WSUD principles have been applied to the proposal to manage the quality and quantity of stormwater
Additional traffic and access to Ellerton Drive Extension	The Traffic Study prepared by AECOM conforms that the proposed development will not have an unreasonable impact on traffic. This is supported by TfNSW.
Impact on views from existing urban areas	The development will be able to be viewed from outside the site, however, the higher areas of the site are protected from development under the E2 zone and scenic protection provision and map in the QLEP2012 and not proposed to be developed for housing.
Building height 8.5 subject to interpretation	The standard measure of height from natural ground level is resolved in the QLEP2012
Due process relating to the rezoning of the land and timing of the DA	Noted. The EPA Act allows for the concurrent consideration of a DA and Planning Proposal.
Unclear as to the additional housing options that will be provided	The site includes a range of lots that will accommodate single dwellings and secondary dwellings as permissible uses.
Bushfire risk	Refer above
Noise	Report was prepared by SLR considering transportation noise. The report found that the erection of barriers on the property boundary would have limited impact on noise. The required noise mitigation can be addressed through materials used and considered as part of the DA for the construction of dwellings.
Heritage	Refer above

**Section 4.15(1)(e) The public interest**

The proposed development is in the public interest and will provide additional housing supply to the LGA. In addition, the proposal will result in the remediation of contaminated land and restoration of the Jumping and Valley Creeks and the delivery of public open space for the incoming and wider community. The proposal will result in the loss of vegetation, however, this is offset by additional planting as outlined in the Vegetation Management Plan.

Biodiversity credits will be retired under the BC Act. Conditions of consent regarding site management throughout the construction process are recommended as to ensure there is minimal impact on surrounding properties during construction period.

## 4. Referrals

### 4.1 External referrals

The DA is integrated development. The proposal was referred to the relevant agencies. The external referrals undertaken for this DA are summarised in the following table:

External Referral	Requirement	Response
NSW Rural Fire Service.	Concurrence under section 100B of the Rural Fires Act	General Terms of Approval provided
TfNSW	Concurrence under SEPP (Infrastructure)	No objection, no specific conditions
NRAR	Controlled Activity Under the Water Management Act 2000	General Terms of Approval provided
Heritage NSW	AHIP under national Parks and Wildlife Act 1974	General Terms of Approval provided

A standard condition that requires compliance with the external referral responses is recommended.

### 4.2 Internal Referrals

The DA was referred internally to the relevant technical staff within Council. The comments have been captured throughout the assessment report. The internal referrals are outline below. Copies of the internal responses have been attached.

#### **Heritage Officer**

The application was referred to the Heritage Officer how provided comments and a recommendation in relation to Machiori's Lime Kiln and Quarry (Item A2 Schedule 5 of the QLEP2012).

Following an inspection of the site, it was noted that while outside the development area, it would be necessary to provide a protective fence to mitigate damage during construction and make the site safe until stabilised for public access. There was also discussion as to the future conservation of the site which will need to be considered in the context of the management of the residual land prior to dedication to Council.

This has been included as a draft condition.

#### **Development Engineer**

The DA package was referred to the Development Engineer. The detailed assessment is attached.

The Development Engineer noted a number of matter which required the submission of additional information and/or clarification including the following.

1. It needs to be ascertained whether other rainfall events between 20% and 1% will exceed predevelopment flow rates from the development site. It is known that 5% AEP events cause riverine flooding and an increase in predevelopment discharge rates from the site for the 5% event seems likely given the detention of 20% events is ineffective. This needs to be investigated further.
2. Odour modelling for proposed sewer vent stack at the edge of Greenleigh to be provided to Council.



3. Provide a response to Council addressing the requirements of Design Specification D5 clauses D5.14.4 and D5.14.5 as these do not appear to be addressed in the Civil report.
4. Civil report should be revised to specify the Water Quality Objectives identified in accordance with Design Specification D7 Clause D7.21.

In addition, the Development Engineer has recommended a change to Road 001 to satisfy the design requirements for a Collector Road. This is discussed in relation a variation to the DCP earlier in this report.

Subject to the design amendments, the Development Engineer has supported the approval of the DA with conditions. The matters outlined above have been accommodated and will need to be satisfied prior to the release of a Subdivision Works Certificate.

### **Urban Landscapes**

The DA was referred to the Manager Urban Landscapes. Council's Manager Urban Landscapes offered no objections to the proposal. Council will have a role in the deliver of the proposed open space under the terms of the VPA.

### **Tree Officer**

The DA was referred to the Tree Officer who recommended the retention of Tree 36 as noted above. This has been incorporated in a condition.

### **Environmental Health**

The Health Office has revised the DA package, in particular in relation to the SEPP 55 requirement to address contamination. The comments have been incorporated under the SEPP 55 assessment in section 4 of this report.

The Health Officer recommended a number of conditions that have been included in the draft conditions of consent.

## 5. Conclusion

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The development is Regional Development for the purposes of the State Environmental Planning Policy (State and Regional Development) 2011 and the Southern Regional Planning Panel is the consent authority for the application.

The application has been assessed under the relevant State Environmental Planning Policies and Queanbeyan Local Environmental Plan 2012. This assessment found that the development satisfies the controls and requirements of these instruments.

The relevant matters for consideration under section 4.15 of the EP&A Act have also been considered. The development is suitable for the site, and the proposed impact is acceptable. The proposal is unlikely to have an impact on neighbouring properties beyond the change from a rural outlook to semi-urban. The submissions from the community and agencies have been considered and conditions recommended where appropriate. There are no significant public interest concerns resulting from the development.

The development is recommended for conditional approval.

### **Attachments**

Internal Referrals

External Referrals

DCP Assessment Table

Draft Conditions of Consent