

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSWC-29
DA Number	DA19/0704
LGA	Penrith
Proposed Development	Integrated Development Application for; Staged Subdivision of Land to Create 227 Residential Lots, 17 Industrial Lots, Open Space Lots, 14 Residue Lots and Road Dedication. Works include Site Preparation, Vegetation Removal, Bulk Earthworks, Civil Works, Construction of Roads, Including the East-West Collector Road and Round-a-bout on Werrington Road, Stormwater Infrastructure and Basins.
Street Address	16 Chapman Street WERRINGTON NSW 2747 & Part Lot 2 Water Street WERRINGTON NSW 2747
Applicant/Owner	Lendlease Communities (Werrington) Pty Ltd C/- Gln Planning / Lendlease Communities (Werrington) Pty Ltd
Date of DA lodgement	4 October 2019
Total number of Submissions Number of Unique Objections	• 22 • 12
Recommendation	Approval
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	The development has a combined Capital Investment Value (CIV) over \$30 million and thus the proposal is Regionally significant development under Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011
List of all relevant s4.15(1)(a) matters	• State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy No. 55 Remediation of Land • State Environmental Planning Policy (Western Sydney Aerotropolis) 2020 • Sydney Regional Environmental Plan No.20 – Hawkesbury Nepean River • Penrith Local Environmental Plan 2010 • Penrith Development Control Plan 2014
List all documents submitted with this report for the Panel's consideration	• Appendix 1-5 to accompany assessment report • Appendix 6 – Subdivision Plans • Appendix 7 – Civil Plans • Appendix 8 – Land Swap Subdivision Plans • Appendix 9 – Landscape Plans • Appendix 10 – Civil Engineering and Infrastructure Report • Appendix 11 – Rural Fire Services General Terms of Approval • Appendix 12 – Fill Management Protocol • Appendix 13 – Noise Impact Assessment • Appendix 14 – Supplementary Investigation - Shed
Clause 4.6 requests	• The clause 4.6 application relates to Penrith Local Environmental Plan 2010 • Clause 4.1 – Minimum subdivision lot size • Within the IN2 – Light Industrial zone.
Summary of key submissions	• Biodiversity concerns; • Increased traffic in the area; • Flooding concerns; • Loss of Open Space; • Security Concerns; and • Impact on adjoining development.
Report prepared by	Kathryn Sprang
Report date	4 December 2020

Summary of s4.15 matters

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

Yes

Legislative clauses requiring consent authority satisfaction

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

Yes

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

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Yes
Special Infrastructure Contributions	
Does the DA require Special Infrastructure Contributions conditions (S7.24)?	
<i>Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions</i>	Not applicable
Conditions	
Have draft conditions been provided to the applicant for comment?	
<i>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</i>	No

SWCPP Ref. No.:	No SWCPP Number entered in Proclaim/P&R under Custom Field PPSSWC-29
DA No.:	DA19/0704
PROPOSED DEVELOPMENT:	Integrated Development Application for; Staged Subdivision of Land to Create 227 Residential Lots, 17 Industrial Lots, Open Space Lots, 14 Residue Lots and Road Dedication. Works include Site Preparation, Vegetation Removal, Bulk Earthworks, Civil Works, Construction of Roads, Including the East-West Collector Road and Round-a-bout on Werrington Road, Stormwater Infrastructure and Basins. - Lot 2 DP 1176624, Lot 1 DP 1226122, 2 Water Street, WERRINGTON NSW 2747 Water Street, WERRINGTON NSW 2747 Gipps Street, WERRINGTON NSW 2747 Gipps Street, WERRINGTON NSW 2747 Gipps Street, WERRINGTON NSW 2747 11 Gipps Street, WERRINGTON NSW 2747 16 Chapman Street, WERRINGTON NSW 2747
APPLICANT:	Lendlease Communities (Werrington) Pty Ltd C/- Gln Planning
REPORT BY:	Kathryn Sprang, Environmental Planner, Penrith City Council

Assessment Report

Executive Summary

Council is in receipt of a development application from Lendlease Communities (Werrington) for the Staged Subdivision of Land to Create 227 Residential Lots, 17 Industrial Lots, Open Space Lots, 14 Residue Lots and Road Dedication. Works include Site Preparation, Vegetation Removal, Bulk Earthworks, Civil Works, Construction of Roads, Including the East-West Collector Road and Round-a-bout on Werrington Road, Stormwater Infrastructure and Basins at Lot 1 DP 1226122 and Lot 2 DP 1176624, 16 Chapman Street and 2 Water Street, Werrington.

The site has multiple zones being; E2 Environmental Conservation, IN2 Light Industrial, R1 General Residential, R4 High Density Residential and RE1 Public Recreation under Penrith Local Environmental Plan (LEP) 2010. The proposed development is defined as subdivision under clause 2.6 of the LEP and is a permissible land use with consent.

The application is to be determined by the the Sydney Western City Planning Panel as it has a Capital Investment Value over \$30 million.

The development application was submitted as integrated development in accordance with Section 4.46 of the Environmental Planning and Assessment Act 1979 and seeks concurrent approval from the NSW Rural Fire Services under Section 100B of the Rural Fires Act 1997 due to the proposed subdivision being on bushfire affected land. General Terms of Approval were issued by NSW Rural Fire Services in a letter dated 28 September 2020 in this regard.

In accordance with the provisions of the State Environmental Planning Policy (Infrastructure) 2007, the development application was referred to Transport for NSW (TfNSW) as required by clause 104 (traffic-generating development). TfNSW have raised some concerns with the proposal due to the location of the proposed round-a-

bout. However, Council's Traffic Engineers support the proposal and have recommended approval. The application has not been referred to TfNSW for concurrence, and the comments from TfNSW have been suitably considered in the assessment of the application.

The proponent referred the application and proposed vegetation clearing - of their own volition - to the Federal Environment Minister seeking direction/approval under Part 9 of the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act). The proposed vegetation clearing was approved by the Federal government's Department of Agriculture, Water and the Environment on the 29 July 2020.

Key issue identified throughout the assessment and resolved through the process relates to the location and alignment of the proposed new East/West Collector Road;

- The alignment of the proposed East/West collector road originally resulted in residential allotments on industrial zoned land and the applicant was seeking consent for this aspect pursuant to Clause 5.3 Development near zone boundaries of Penrith Local Environmental Plan 2010.

As a result the proposal also sought variation to the minimum lot size for the residential allotments on industrial zoned land which necessitated a Clause 4.6 variation request to contravene the development standard to 18 proposed residential and residue residential lots.

This was not an outcome supported by Council and subsequently through negotiations with the applicant, a revised subdivision plan was submitted that had re-aligned the road to suit the zone boundary and removed all residential allotments from the industrial zoned land. This resulted in an overall increase of industrial land by the inclusion of three additional industrial lots as well as the loss of 33 residential lots.

The alignment of the East/West collector road has been driven by the surrounding land ownership issues/uses. The applicant entered into a land swap arrangement with Wollemi college and Thorndale Foundation in order to establish the roundabout and subsequent connection of the East West Collector road.

The application was exhibited between 1 November to 15 November 2019 and again between 13 April to 27 April 2020 in accordance with relevant legislation. A total of 8 unique submissions, that raised concern to the proposal and a proforma letter from 6 individuals was received in response. Additionally, 4 submission were received in support of the proposal from adjoining property owners. The key issues identified in the submissions were:

- Biodiversity concerns;
- Increased traffic in the area;
- Flooding concerns;
- Loss of Open Space;
- Security Concerns; and
- Impact on adjoining development.

An assessment of the proposal under Section 4.15 of the Environmental Planning and Assessment Act 1979 has been undertaken and the key issue identified have been satisfactorily addressed specifically;

- The resolution of the east-west collector road location.

The proposal also aligns with NSW strategic planning outcome of delivering housing, recreation spaces and employment lands in Western Sydney to meet housing demands and create livable spaces where communities can live, work and play.

Therefore the application is recommended for approval subject to recommended conditions.

Site & Surrounds

The proposal seeks to carry out works on the following sites;

Land	Land Owner	Owner's Consent Provided
Lot 1 DP 1226122, 16 Chapman Street, Werrington	Lendlease Communities	Yes
Lot 2 DP 1176624, 2 Gipps Street, Werrington	Pared Limited (Wollemi College)	Yes
Lot 12 DP 734612, 12 Werrington Road, Werrington	Roads & Maritime Services	Yes
Lot 1 DP 5277752, 51 Rance Road, Werrington	Thorndale Foundation	Yes
Lot 1 DP 749982, 611-651 Great Western Highway, Werrington	Minister for Community Services (Cobham Youth Justice Centre)	Yes
Lot 101 DP 1140594, Great Western Highway, Werrington	Western Sydney University	Yes

The subject site has an area of approximately 28 hectares and is irregular in shape. The site has multiple street frontages, being Chapman Street, Landers Street, Walker Street (north), Webb Street (unformed), Rance Road and Werrington Road (east). The site also adjoins Western Sydney University – Werrington Campus (west), Thorndale Foundation - disability services, vacant approved residential subdivision (east), Cobham Youth Justice Centre, Wollemi College, existing residential property (south), rail corridor and existing medium density residential properties (north).

The site has multiple zones being; E2 Environmental Conservation, IN2 Light Industrial, R1 General Residential, R4 High Density Residential and RE1 Public Recreation.

Primarily the site slopes from west to east with a total cross fall of approximately 16m.

The site is currently vacant and contains native vegetation identified as Cumberland Plain Shale Woodlands and Shale-Gravel Transition Forest.

Site constraints

Easements

- Easement Drainage 3 Meters
- Easement for Pad Mount Substation 2.75M
- Easement for Sewerage Purposes over existing line of pipes and pits

History

Previous consents for the site include:

- DA14/0627 - Subdivision - 85 x Residential Lots and 2 x Residue Lots Torrens Title Subdivision and Associated Road Construction, Earthworks and Drainage. Determined (approved) by Penrith City Council on 12/02/2016.
- DA14/0627.02 - Section 96 Modification to an Approved Residential Subdivision and Ancillary Works to Amend Conditions of Consent, Stormwater Drainage. Determined (approved) by Land and Environment Court of NSW 21/12/2017
- DA16/0789 - Subdivision into 3 x Allotments & Construction of 3 x Residential Flat Buildings on Proposed Lot 3 with Associated Basement Car Parking, Landscaping & Drainage Works. Determined (approved) by

Land and Environment Court of NSW 01/11/2017

- DA16/1148 - Torrens Title Subdivision into 94 Residential Allotments & 11 Industrial Allotments and Associated Road Works, Civil Works & Landscaping. Determined (approved) by Land and Environment Court of NSW 21/12/2017

There is also an adjoining subdivision approval for 25 Rance Road, Werrington which also forms part of the South Werrington Urban Village (SWUV) Precinct (DA15/0207 - Torrens Title Subdivision and Associated Road Construction, Landscaping and Drainage Works. Determined (approved) by Land and Environment Court of NSW 14/11/2017). This determination through conditions of consent required the provision of a small round-a-bout just north of the round-a-bout proposed under this application. The development also required a temporary drainage basin until such time as the permeant drainage basin was constructed and delivered for the precinct.

The current application would facilitate an ultimate round-a-bout design and drainage basin for the precinct. Both the round-a-bout design and basins have been discussed further within the body of the assessment report.

Proposal

This Development Application seeks consent for a staged residential and industrial subdivision that comprises of the following;

- Site preparation works, including site clearance, tree and vegetation removal;
- Bulk earthworks and ground contouring including retaining walls;
- Construction of new roads and associated civil works, including the construction of the East-West Collector Road and a new roundabout on Werrington Road;
- Construction of new stormwater detention basins and stormwater network and associated infrastructure works;
- Subdivision of Lot 1 DP 1226122 and Lot 2 DP 1176624 into six proposed lots (proposed lots 100, 101, 102, 103, 104 and 105);
- To facilitate the proposed construction of the East West Collector Road Lendlease, Wollemi College and Thorndale have entered into a land swap agreement as follows;
 - Creation of lot 102, 104 and 105 from the existing Wollemi College owned land for the future road reserve.
 - As a result of creating lot 102, 104 and 105 - lot 101 is created on Lendlease's land to given to Wollemi College as part of the land swap.
 - The proposed intersection between the East West Collector Road and Werrington Road will require land as currently owned by Thorndale for road reserve. As a result of losing this land for the proposed East West Collector Road Lendlease propose to create lot 4000 to given Thorndale as part of the land swap.
- Staged subdivision of proposed lots 100 and 102 to create:
 - 227 residential lots and 14 residue residential lots;
 - 17 industrial lots
 - 3 lots comprising two future RE1 Public Open Space Parks and an E2 Environmental Conservation lot
 - A single residue lot to accommodate the future extension of Chapman Street west into the Western Sydney University Site.

The following subdivision staging has been proposed:

Stage 1A

- 65 Residential lots
- Environmental Conservation lot
- Public Park

- 1 Residue lot for future road connection
- Partial creation of roads 01, 02,03, 08 & 09

Stage 1B

- 51 Residential lots
- 4 residue lots for residential purposes
- Partial creation of roads 01,02, & 03

Stage 2A

- 35 Residential lots
- 4 residue lots for residential purposes
- Creation/partial creation of roads 01, 04, 05, 09 & 11

Stage 2B

- 55 Residential Lots
- 5 Residue lots for residential purposes
- Creation/partial creation of road 01, 07 & 11

Stage 3

- 22 Residential lots
- Public Park
- 2 Residue lots
- Creation/partial creation of road 10 &13

Stage 4A

- 7 Industrial lots
- Creation of road 12
- Partial creation of road 11

Stage 4B

- 10 Industrial lots
- Partial creation of road 11

The following works are also proposed on the following adjoining lots;

Land	Works Proposed	Land Owner	Owner's Consent Provided
Lot 2 DP 1176624, 2 Gipps Street, Werrington	Land Swap as detailed above and retaining walls to support roads	Pared Limited (Wollemi College)	Yes
Lot 12 DP 734612, 12 Werrington Road, Werrington	Part of the East West collector road and roundabout located in this land.	Roads and Maritime Services	Yes
Lot 1 DP 5277752, 51 Rance Road, Werrington	Land swap as detailed above and battering and retaining walls to support East West Collector Road and roundabout partially located in this land.	Thorndale Foundation	Yes
Lot 1 DP 749982, 611-651 Great Western Highway, Werrington	Drainage Inlet	Minister for Community Services (Cobham Youth Justice Centre)	Yes

Lot 101 DP 1140594, Great Western Highway, Werrington	Drainage SWALE	Western Sydney University	Yes
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Other Relevant Development Applications

There are a number of other Development Applications currently lodged with Council that relate to works within the precinct, including:

- DA20/0081 - Embellishment of Open Space Areas and Stormwater Bio-retention Basin
- DA20/0084 - Temporary Sales Centre with ancillary car parking, signs and landscaping
- DA20/0200 - Integrated Housing Comprising Site Preparation, Construction of 26 Detached Dwelling Houses and Subdivision to Create 26 Torrens Title Residential Lots on Proposed Residue Lots 1254, 1255, 2037, 2038 and 2260 Proposed to be Created under DA19/0704.

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy (Western Sydney Aerotropolis) 2020
- State Environmental Planning Policy No 55—Remediation of Land
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

• Section 1.7 - Application of Part 7 of Biodiversity Conservation Act 2016

The subject development application was lodged on the 4 October 2020 prior to the introduction of the Biodiversity Offset Scheme entry requirements under the Biodiversity Conservation Act 2016 (commenced on 25 November 2019 in Penrith Council), therefore the former planning provisions apply (former section 5A of the Environmental Planning and Assessment Act 1979 and Threatened Species Conservation Act 1995).

The subject site is part of a master planned estate that is zoned to permit the proposal and ultimately will provide supply of housing to meet demand and an employment area to ensure more jobs are located in closer proximity to residential areas. The subject site was part of a planning proposal that led to the ultimate rezoning of the subject site and broader precinct. Biodiversity impacts were also assessed as part of this past planning proposal and it is noted that the flora and fauna reports that accompanied the proposal stated:

"Scattered trees and some woodland are likely to be removed if development occurs on land identified for urban development under the draft structure plan. The proposal is to maintain the best quality and most extensive woodland on the site in a single reserve. This is a better outcome than attempting to preserve small scattered patches of woodland in an urban setting."

This view was ultimately accepted by Council and the Department of Planning and as such the loss of the identified vegetation is not considered to cause a significantly adverse environmental impact.

The applicant has satisfactorily demonstrated that they are retaining 1.6ha of Cumberland Plain Woodland (CPW) within the E2 Environmental Conservation zone and a large undisturbed section of CPW within the proposed central park. The preserved CPW will be subject to a Vegetation Management Plan that the

applicant has proposed, with the aim to preserve and/or improve biodiversity values in these areas. The protection and conservation of these areas of CPW is in accordance with the structure plan and objectives of Council's DCP.

The applicant has also provided the following biodiversity documents to inform the assessment;

- 7-Part Test Assessment of Significance,
- Construction Environmental Management Plan,
- Vegetation Management Plan,
- Biodiversity Due Diligence Assessment; and
- Flora and Fauna Assessment

The 7-Part Test Assessment of Significance concluded that; *assuming the CPW within the E2 Environmental Conservation zone located adjacent to the Site is adequately protected due to the intent of the ecological conservation zoning, and that areas of retained CPW within the RE1 open space area and E2 conservation zones are retained and managed for long-term conservation values, then the Project is unlikely to have a significant impact on the critically endangered ecological communities. In this instance, a species impact statement would not be required.*

Council have reviewed the documents lodged and noted some data gaps in respect to reporting, however conditions have been recommended to capture the data gap, including an amended Vegetation Management Plan (VMP) and associated management report and strategies, that are to be lodged prior to issue of a construction certificate or works commencing (whichever occurs first). Included within the amended VMP the proponent is to include: A Fauna Management Plan, incorporating actions that mitigate impacts on native fauna. The Fauna Management Plan is to include clear measures that will be implemented by the proponent to facilitate fauna movement, including kangaroos.

Whilst there remains a data gap in relation to the VMP, generally the clearing of the proposed vegetation is considered suitable on balance.

The amended VMP and associated management report and strategies will provide Council with the additional information required in order to fill in the data gaps. Additionally, the recommended condition of consent will also require a restriction to user to be imposed on the areas of vegetation to be preserved that they are to be maintained as such in perpetuity.

While some vegetation is proposed for removal necessitated by the required earthworks to facilitate drainage of the site the proposal is considered suitable on balance and aligns with the Threatened Species Conservation Act 1995 and strategic intent for the precinct.

Additionally, the proposed removal of vegetation was approved by the Federal government's Department of Agriculture, Water and the Environment on the 29 July 2020, in accordance with Part 9 of the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act).

• **Section 2.12 – Sydney Western City Planning Panel (SWCPP)**

The application has been assessed in accordance with Section 2.12 of the Environmental Planning and Assessment Act and the application will be determined by the Sydney Western City Planning Panel (SWCPP) as the development has a Capital Investment Value (CIV) of \$31 million.

Council have also briefed the proposal to SWCPP on the 17 February 2020 and 17 August 2020.

In summary issues raised by the panel for attention on the 17 February included;

- Civil engineering will require close attention, particularly the interface with Western Sydney University.
- Issue raised that the proposed residue lots adjacent to the east-west collector road may be an incompatible development use due to the proposed use of clause 5.3 development near zone boundaries of the Penrith LEP 2010.

- If future residential lots are proposed along the boundary with the east-west collector road, an indicative drawing showing how development can work in the future may be appropriate.
- The interrelationship between conditions on other DA's within the precinct will be considered by Council staff, noting particularly civil works along the boundaries.

In summary issues raised by the panel for attention on the 17 August included;

- Not all landowner's consent had been obtained for works proposed.
- Concerned as to the loss of employment land due to east-west collector road resulting in residential allotments on industrial zoned land.
- Traffic and access issues, particularly residential lots that depend on the new east-west collector road for access.
- Concern about the location of bushfire asset protection zones located in a public park.
- **Section 4.14 - Bushfire prone land assessment**
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 28 September 2020.

- **Section 4.15 - Evaluation**

The development has been assessed in accordance with the matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, and having regard to those matters, the following issues have been identified for further consideration:

- **Section 4.46 - Integrated development**

The development has been assessed in accordance with the matters for consideration under Section 4.46 of the Environmental Planning and Assessment Act 1979, and having regard to those matters, the following issues have been identified for further consideration;

- The proposal is integrated development with the NSW Rural Fire Services (RFS) as prescribed under the Rural Fires Act 1997, s 100B.
- General Terms of approval have been provided by the NSW RFS on the 28 September 2020.

The General Terms of Approval require the following matters to be conditioned;

- At the issue of a subdivision certificate and in perpetuity, to ensure ongoing protection from the impact of bush fires, the Central Park Lot 1065 must be managed in accordance with the Vegetation Management Plan prepared by Niche Environment & Heritage (Ref: 5194, dated 10 July 2020).
- At the issue of a subdivision certificate and in perpetuity, to ensure ongoing protection from the impact of bush fires, the entire site excluding proposed Lots 1000, 1065 & 3000 must be managed as an inner protection area (IPA) in accordance with the requirements of Appendix 4 of Planning for Bush Fire Protection 2019.
- At the issue of a subdivision certificate and in perpetuity, to ensure ongoing protection from the impact of bush fires, a minimum 7 metre asset protection zone (APZ) along the eastern boundary of proposed Lot 1000 where it adjoins the neighbouring property 19 Chapman Street must be managed as an inner protection area (IPA) in accordance with the requirements of Appendix 4 of Planning for Bush Fire Protection 2019.
- At the issue of a subdivision certificate and in perpetuity, to ensure ongoing protection from the impact

of bush fires, a minimum 12 metre APZ shall be provided along the western boundary of residual Lot 2268 where it adjoins the Central Park Lot 1065.

- Public roads must comply with the following general requirements of Table 5.3b of Planning for Bush Fire Protection 2019
- At each stage of the subdivision, temporary turning heads shall be provided to temporary dead end roads incorporating either a minimum 12 metre radius turning circle or turning heads compliant with A3.3. Vehicle turning head requirements of Planning for Bush Fire Protection 2019. The turning area can be removed upon opening of future proposed through roads.
- The provision of water, electricity and gas must comply the following in accordance with Table 5.3c of Planning for Bush Fire Protection 2019.

Section 4.15(1)(a)(i) The provisions of any environmental planning instrument

State Environmental Planning Policy (Infrastructure) 2007

The development proposal was referred to Transport for NSW (TfNSW) in accordance with the requirements of the State Environmental Planning Policy (Infrastructure) 2007, as detailed below:

Subdivision 2 Development in or adjacent to road corridors and road reservations

104 Traffic-generating development

Clause 104 of the Policy relates to subdivision of land of 200 or more allotments where the subdivision includes the opening of a public road (as specified in Schedule 3) and states that before determining a development application a consent authority must:

- (a) give written notice of the application to RMS within 7 days after the application is made, and*
- (b) take into consideration—*
 - (i) any submission that RMS provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, RMS advises that it will not be making a submission), and*
 - (ii) the accessibility of the site concerned, including—*
 - (A) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and*
 - (B) the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and*
 - (iii) any potential traffic safety, road congestion or parking implications of the development.*
- (4) The consent authority must give RMS a copy of the determination of the application within 7 days after the determination is made.*

A referral was sent to TfNSW on the 5 November 2019 and TfNSW referral response was received on the 24 January 2020 and raised concern with the proposal for the following reasons;

- The alignment of Road 11/East-West Collector not being in accordance with the structure plan in Council's DCP.
- The intersection of the Great Western Highway/Werrington Road was not assessed as part of the Traffic Impact Assessment lodged. A further traffic study was requested so as to consider the impacts of the proposal on the surrounding road networks.
- Further Traffic modelling and analysis was requested so as to consider the cumulative traffic impact of the development on surrounding roads and intersections in the context of any other known planning proposals and development in the precinct/surrounds.

The applicant submitted amended plans and documents and a second referral was sent to TfNSW on the 31 March 2020. TfNSW second referral response was received on the 20 May 2020 and again raised concern with the development for the following reasons;

- Concern raised with the performance of the intersection of the Great Western Highway and Werrington Road, necessitating upgrade works to the intersection to reduce queue lengths.
- The alignment of Road 11/East-West Collector not being in accordance with the structure plan in Council's DCP. TfNSW requests that the land identified for future road in the ultimate arrangement of the DCP is left as a separate lot and is not developed over.

The applicant submitted amended plans and documents and a third referral was sent to TfNSW on the 10 August 2020. TfNSW third referral response was received on the 13 October 2020 and stated;

In TfNSW letter dated 20 May 2020 (see Tab A), TfNSW raised concerns with Council that the proposed development will have negative impacts to the surrounding local and state road network. In this regard TfNSW believes further information is required to alleviate the impact of this development for safety and efficiency reasons. As Council are the planning authority for this development it is up to Council to determine if the development risks raised by TfNSW are satisfied.

In the same letter, TfNSW also provided design advice in relation to the proposed round-a-bout this has been considered and incorporated into recommended conditions of consent where relevant.

The proposal has been thoroughly reviewed by Council and was found to be satisfactory for the following reasons;

- The Traffic Assessment Report demonstrates that the impact on the surrounding road network is negligible and there are no feasible improvements that can be made to alleviate the level of service experienced on the surrounding roads and intersections. The existing and broader traffic impacts are likely to be fully addressed through the delivery of the future Werrington Arterial Stage 2 road.
- TfNSW confirmed in their referral response dated 24 January 2020, that; *"The Werrington Arterial Stage 2 proposal has not yet advanced to the stage where the corridor has been defined and accordingly it is not possible at this date to identify if any part of the subject property would be required to accommodate this proposal"*. The proposed round-a-bout location does not fetter the provision of an intersection or connection with the proposed Stage 2 at a later date in accordance with the structure plan if that is determined as the correct location as part of the detailed design investigations into the future road corridor.
- Enforcing strict compliance with the round-a-bout location identified in the DCP structure plan doesn't appear practical or reasonable at this stage.
- Council's assessment of the proposal identifies that any proposed stage of residential development will require the provision of a complying approved roundabout at the intersection of Rance Road and Werrington Road due to the existing poor level of service and observed delays and traffic conflicts for vehicles turning out of Rance Road on Werrington Road. This has formed part of Council's recommended conditions.

Council has taken into consideration TfNSW comments, however on merit the proposal was found to be satisfactory and is therefore recommended for approval.

State Environmental Planning Policy (Western Sydney Aerotropolis) 2020

An assessment has been undertaken of the application against relevant criteria with State Environmental Planning Policy (Western Sydney Aerotropolis) 2020 and the application is satisfactory subject to recommended conditions of consent.

Specifically the following sections of the State Environmental Planning Policy (Western Sydney Aerotropolis) 2020 were applicable and were found to be satisfied;

Part 3 Development Controls - Airport safeguards

21 Wildlife hazards

The subject site is located within the 13km wildlife buffer zone on the map.

This section specifies that development consent must not be granted to relevant development on land on land in the 13 km wildlife buffer zone unless the consent authority—

- (a) has consulted the relevant Commonwealth body, and*
- (b) has considered a written assessment of the wildlife that is likely to be present on the land and the risk of the wildlife to the operation of the Airport provided by the applicant, which includes—*
 - (i) species, size, quantity, flock behaviour and the particular times of day or year when the wildlife is likely to be present, and*
 - (ii) whether any of the wildlife is a threatened species, and*
 - (iii) a description of how the assessment was carried out, and*
- (c) is satisfied that the development will mitigate the risk of wildlife to the operation of the Airport, including, for example, measures relating to—*
 - (i) waste management, landscaping, grass, fencing, stormwater or water areas, or*
 - (ii) the dispersal of wildlife from the land by the removal of food or the use of spikes, wire or nets.*

relevant development means development for the following purposes—

- (a) agricultural produce industries,*
- (b) aquaculture,*
- (c) camping grounds,*
- (d) eco-tourist facilities,*
- (e) garden centres,*
- (f) intensive livestock agriculture,*
- (g) intensive plant agriculture,*
- (h) livestock processing industries,*
- (i) plant nurseries,*
- (j) recreation facilities (major),*
- (k) recreation facilities (outdoor),*
- (l) sewage treatment plants,*
- (m) waste or resource management facilities that consist of outdoor processing, storage or handling of organic or putrescible waste,*
- (n) water storage facilities.*

The proposal is for the Torrens title subdivision of the site into residential lots, industrial lots, public recreation lots and an environmental conservation lot and associated site preparation works. The proposal does not include any of the listed relevant development and therefore no further action is required in respect to this matter.

24 Airspace Operations

The subject site is located within land as shown on the Obstacle Limitation Surface Map.

The proposal is for subdivision and no built form that would exceed 230.5 AHD is proposed as part of this application, nor are any structures close to or exceeding 230.5 AHD anticipated to be proposed for any future built form on the site.

Therefore, the proposal is not defined as a controlled activity as per the Airports Act 1996 of the Commonwealth.

No further action is required in respect to this matter.

State Environmental Planning Policy No 55—Remediation of Land

As assessment has been undertaken of the application against relevant criteria with State Environmental Planning Policy No 55—Remediation of Land and the application is satisfactory subject to recommended conditions of consent.

A number of documents have been submitted as a part of this application to address SEPP 55, please refer to the detailed assessment below for further information;

The Site Audit Statement confirmed that the site was suitable for the proposed use, although it included a condition that required the "asbestos cement pipe found near TP04 to be delineated and removed in accordance with best practice". The Asbestos Clearance Certificate documents an inspection that aims to address this condition. However, the Certificate does not include a site plan that shows the location, length and depth of the cement pipe. Furthermore, the relevant receipts for waste disposal have also not been included. This information was requested of the applicant to ensure that appropriate records are available that clearly identify the location of the asbestos impacted and remediated area, and confirm appropriate waste management. This information was unable to be provided by the applicant.

The Preliminary Environmental Site Assessment made a number of recommendations to address a small shed, toilet, and areas of fly tipping and filling. The Detailed Site Investigation reviewed the findings of the previous investigations and made comment that one of the areas of concern had still not been investigated as structures had not yet been demolished - beneath an existing site shed and composting toilet. The report also recommended that an unexpected finds protocol be produced. It concluded that once these two recommendations have been undertaken then "the site shall be deemed fit for the proposed residential development". Whilst the unexpected finds protocol can be addressed through conditions of consent, a further 'data gap' investigation has since been carried out to address potential impacts associated with the shed and toilet.

The Data Gap Assessment involved a sampling program undertaken to address the shed and composting toilet. Nine samples were taken from varying depths - 2 within the shed, 2 from the toilet, and 5 from around the structures. The samples were analysed for a range of parameters, and compared against the appropriate criteria. Borehole 6 and 7 were found to exceed the criteria for a range of contaminants, including chromium and lead, whilst also having levels above the laboratory detection limit for TRH. The report concluded "that the site can be made suitable for the proposed residential development", subject to additional assessment targeting the footprint of the structures following demolition works.

The shed structures could not be clearly identified on the site survey plan submitted with the application. In turn, the above recommended additional assessment was requested to be carried out by a suitably qualified environmental consultant to confirm that this area is suitable for the proposed development. In response, a further investigation was carried out and the Supplementary Investigation - Shed, Proposed Residential Subdivision was provided. This investigation confirmed that the shed and composting toilet were still present on site, and targeted samples were taken of surface soils next to the shed. These samples did not exceed the relevant criteria, and Douglas Partners concluded that the soils in this area were suitable for residential use. However, they recommended that additional sampling of soils below the composting toilet be undertaken once the structure has been demolished.

Whilst there remains a data gap in relation to this area of the site, generally the site is considered suitable for the proposed residential and industrial uses. Given that development of the site is proposed to be staged, the additional contamination investigation will be sought through conditions of consent, where an associated report will be required to be provided to Council for approval prior to the development of the relevant stage (Stage 2A). Should remediation works be found to be required, then an additional application will need to be made to Council for these works.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

An assessment has been undertaken of the application against relevant criteria with Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River (No 2—1997) and the application is satisfactory subject to recommended conditions of consent.

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Permissibility	Complies
Clause 2.3 Zone objectives	Complies
Clause 2.6 Subdivision - consent requirements	Complies
Clause 4.1 - Minimum subdivision lot size	Does not comply - See discussion
Clause 4.6 Exceptions to development standards	Complies - See discussion
Clause 7.1 Earthworks	Complies
Clause 7.2 Flood planning	Complies - See discussion

Clause 4.1 - Minimum subdivision lot size

There is no prescribed minimum lot size within the R1 - General Residential, R4 - High Density Residential, RE1 - Public Recreation or E2 - Environmental Conservation zones within the subject site.

The IN2 - Light Industrial zone has a minimum lot size requirement of 2000m² all lots within this zone meet the minimum 2000m² with the exception of one lot.

There is one proposed residue lot (lot 4000) with a lot size of 981.5m², that has a split zoning of R4 - High Density Residential and IN2 - Light Industrial. Due to the partial zoning of this land as IN2 - Light Industrial and the minimum lot size requirement of 2000m², it does result in a variation to the standard of 51%.

A 4.6 variation has been provided by the applicant and will be discussed further within this report.

Clause 4.6 Exceptions to development standards

There is a proposed residue lot (lot 4000) with a lot size of 981.5m², that has a split zoning of R4 - High Density Residential and IN2 - Light Industrial. Due to the partial zoning of this land as IN2 - Light Industrial and the minimum lot size requirement of 2000m², it does result in a variation to the standard of 51%.

Clause 4.6(2) of the LEP provides that development consent may be granted for development even though the development would contravene a development standard. However, Clause 4.6(3) specifies development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- b) that there are sufficient environmental planning grounds to justify contravening the development standards.*

In accordance with Clause 4.6(3), the applicant has requested that the minimum lot size development standard be varied. The applicant has put forward the a written discussion (please refer to appendix 5) in relation to demonstrating that compliance with the development standard is unreasonable or unnecessary and on the basis on which there are sufficient environmental planning grounds particular to the circumstances of the proposed development to justify contravening the development standard.

Comments:

The variation is supportable given that the applicant has suitably addressed that the enforcement of the standard in this instance is unreasonable or unnecessary and that there are sufficient environmental planning grounds to justify contravening the development standard. In summary the proposal is supportable for the following reasons;

- It is a split zoned lot and only approximately 20% of the lot is zoned IN2 - Light Industrial with approximately 80% zoned R4- High Density Residential which does not have a minimum lot size requirement on the subject site.
- The objectives of the standard have been met despite the variation proposed.
- If compliance with the control was sought it could adversely impact on the development opportunities of the adjoining land, which is under separate ownership.
- The proposal is not expected to detrimentally impact on adjoining land owners, the environment or heritage of the area.

Clause 7.2 Flood planning

Clause 7.2 Flood Planning applies to land that is;

- (a) land at or below the flood planning level,*
- (b) land identified as "Flood planning land" on the Clause Application Map.*

Werrington Road is identified as flood planning land on the clause application map, this is applicable as the development's proposed roundabout and only vehicle entry/exit is via Werrington Road. Additionally, the site is also affected by overland flows.

Therefore, prior to consent being granted the consent authority is to be satisfied that the development -

- (a) is compatible with the flood hazard of the land, and*
- (b) if located in a floodway, is compatible with the flow conveyance function of the floodway and the flood hazard within the floodway, and*
- (c) is not likely to adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and*

- (d) is not likely to significantly alter flow distributions and velocities to the detriment of other properties or the environment, and*
- (e) is not likely to adversely affect the safe and effective evacuation of the land and the surrounding area, and*
- (f) is not likely to significantly detrimentally affect the environment or cause avoidable erosion, destruction of riparian vegetation or affect the restoration and establishment of riparian vegetation, or a reduction in the stability of river banks or waterways, and*
- (g) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding, and*
- (h) incorporates appropriate measures to manage risk to life from flood, and*
- (i) is consistent with any relevant floodplain risk management plan.*

Werrington Road/Flood Safe Access

Werrington Road which is flooded during a 1% AEP flood from South Creek / Claremont Creek and does not meet the definition of flood safe access. Therefore safe flood access for vehicles is not available from Werrington Road into/out of the existing site currently.

Flood safe access is generally less than 0.25m of floodwater over the road which would require a road level of approximately RL 23.85m AHD. Allowing for construction tolerances, road crossfalls etc. It is recommended a road level at a minimum of RL 23.9m AHD which is 0.2m below the flood level, is achieved to allow flood safe access into the site.

The engineering plans show the existing pavement levels within the vicinity of the roundabout are at approximately RL 23.5m with the design contours of the roundabout shown as approximately RL 24.0m which is 0.1m above the required pavement level. The roundabout appears to comply.

Proposed Road No 11

A sag exists within proposed Road No 11 with a centreline level of approximately RL 23.5m which is 0.4m below the required pavement level. This section of road could be raised by 0.4m to accommodate the flood safe access.

Werrington Road

Existing levels taken from the engineering plans show that where Rance Road exists onto Werrington Road north of the roundabout show that flood safe access may not be achieved. Given the relatively minor level differences within this area with some additional works within the road reserve flood safe access could be achieved. Recommended conditions of consent have been imposed to address this matter.

It is therefore recommended that the matter is conditioned, so as to ensure there is flood safe access into the development site.

Overland Flow Paths

There is an existing overland flow path along Chapman Street and through the top portion of the E2 - Environmental conservation land.

It is unlikely that there will be any changes to the flow conditions adjacent to the railway corridor. Stormwater pits will be located at the site boundary at Chapman Street to will capture some of the surface runoff into the pipe network, hence reducing the flow depth in Chapman Street.

The second existing overland flow path is located primarily across proposed residue lot 2259, the top section of proposed road 07, the top half of the proposed Eastern Park and has a connection that diagonally runs through the site to Cobham Youth Justice Centre.

This overland flow path will be replaced by the stormwater drainage network in East West Collector Road, which will convey stormwater to the east to Claremont Creek. The stormwater drainage network consists of a series of pit and pipe network ranges between 750mm diameter pipe to 1050mm pipes.

It is anticipated that the development of the site and the proposed storm water drainage system will improve/reduce localized flooding within the site. Council's senior development engineer was also satisfied with the proposed works in respect to this matter.

As shown above it has been demonstrated that flood planning and the matters that must be satisfied prior to granting of consent have been assessed and were found to be satisfactory and/or suitable conditions of consent are recommended.

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

Development Control Plan 2014

Provision	Compliance
DCP Principles	Complies
C1 Site Planning and Design Principles	Complies
C2 Vegetation Management	Complies
C3 Water Management	Complies
C4 Land Management	Complies
C5 Waste Management	Complies
C6 Landscape Design	Complies - see Appendix - Development Control Plan Compliance
C7 Culture and Heritage	Complies - see Appendix - Development Control Plan Compliance
C8 Public Domain	Complies
C9 Advertising and Signage	N/A
C10 Transport, Access and Parking	Complies - see Appendix - Development Control Plan Compliance
C11 Subdivision	Complies - see Appendix - Development Control Plan Compliance
C12 Noise and Vibration	Complies
C13 Infrastructure and Services	Complies
E12 Penrith Health and Education Precinct	Does not comply - see Appendix - Development Control Plan Compliance

Section 4.15(1)(a)(iiia) The provisions of any planning agreement

There is no current planning agreement applicable to the development.

Section 4.15(1)(a)(iv) The provisions of the regulations

The proposed development complies with the requirements of the Regulations in that the following has been actioned/completed;

- Extracts of the development application have been made publically available for viewing online.
- Council have forwarded a copy of the application and concurrence has been sought in a timely manner from the NSW RFS
- The proposal has been publically exhibited and neighbour notification sent out to adjoining/near by land holders.

Section 4.15(1)(b)The likely impacts of the development

Impact on Natural Environment

The subject site is part of a master planned estate that is zoned to permit the proposal and ultimately will provide supply of housing to meet demand and an employment area to ensure more jobs are located in closer proximity to residential areas. The subject site was part of a planning proposal that led to the ultimate rezoning of the subject site and broader precinct. Biodiversity impacts were also assessed as part of this past planning proposal and it is noted that the flora and fauna reports that accompanied the proposal stated:

"Scattered trees and some woodland are likely to be removed if development occurs on land identified for urban development under the draft structure plan. The proposal is to maintain the best quality and most extensive woodland on the site in a single reserve. This is a better outcome than attempting to preserve small scattered patches of woodland in an urban setting."

This view was ultimately accepted by Council and the Department of Planning and as such the loss of the identified vegetation is not considered to cause a significantly adverse environmental impact.

The applicant has satisfactorily demonstrated that they are retaining 1.6ha of Cumberland Plain Woodland (CPW) within the E2 Environmental Conservation zone and a large undisturbed section of CPW within the proposed central park. The preserved CPW will be subject to a Vegetation Management Plan that the applicant has proposed, with the aim to preserve and/or improve biodiversity values in these areas. The protection and conservation of these areas of CPW is in accordance with the structure plan and objectives of Council's DCP.

The applicant has also provided the following biodiversity documents to inform the assessment;

- 7-Part Test Assessment of Significance,
- Construction Environmental Management Plan,
- Vegetation Management Plan,
- Biodiversity Due Diligence Assessment; and
- Flora and Fauna Assessment

Council have reviewed the documents lodged and noted some data gaps in respect to reporting, however conditions have been recommended to capture the data gap.

While some vegetation is proposed for removal necessitated by the required earthworks to facilitate drainage of the site the proposal is considered suitable on balance and aligns with the strategic intent for the precinct.

Additionally, the proposed removal of vegetation was approved by the Federal government's Department of Agriculture, Water and the Environment on the 29 July 2020, in accordance with Part 9 of the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act).

In addition broader sustainability matters such as building materials, emissions, energy efficiency and

waste management will all be considered as part of future Development Applications for each site created by this development proposal. Accordingly, the development can be considered to have minimal adverse impacts upon the natural environment.

Traffic Impacts

The proposed works include the provision of the East-West Collector Road to meet the existing Werrington/Rance Road at a new roundabout. Council envision that the roundabout could operate up to and during the TfNSW Werrington Arterial Stage 2 provision works (clear of traffic). The delivery of this infrastructure will unlock the land and is deemed to be beneficial to the area in respect to facilitating the residential development of the larger precinct, circulation and facilitating the employment land.

In respect to road widths for the proposed roads the following is noted;

- The east-west collector road will have a greater verge width to ensure there is additional landscaping to provide an attractive edge treatment and separation between zones for the adjoining residue residential lots. This is necessitated as the lots represent lot depth variations and are intended to accommodate a contemporary housing design that is unlikely to achieve full compliance with the DCP controls, however this is considered suitable on balance given the additional width provided for landscaping screening.
- The applicant has also provided a greater verge width for the north-south link road so as to accommodate a share path, that was not required by the DCP controls. However, this was considered a necessary addition given objectives of the DCP focus on pedestrian and cycle connectivity between the residential/employment zones and the train station and the north-south link road provides the most direct link to the station for majority of the development.
- The applicant has proposed that Road 09 is to be a local minor road with a carriageway width of 9m. Council's opinion is that the road should be a local road with a carriageway width of 10.5m due to the fact that it will collect traffic from seven proposed residential blocks and will be the most direct route for access to/from these blocks. Council requested the amended width of this road to the applicant on the 2 June 2020, to which they responded on the 26 June 2020; *...we are of the view that Road 09 is a local road and ask Council to reconsider it's request to widen the road.* It was Council's prerogative to recommend a condition of consent to capture the road widening of this road to ensure that there is adequate room for traffic to flow while not being impeded by on street car parking.

Accordingly, the development can be considered to have a positive benefit to the area with minimal adverse impacts upon existing traffic conditions.

Impact on Built Environment

The subject site is vacant and therefore significantly under utilised parcel of land within the emerging precinct. The development will form an important part of the precinct and the proposal provides a clear and logical pattern of land subdivision.

Social and Economic Impacts

The proposed development represents a significant advancement of increasing residential densities in the WELL precinct. The proposed development will not only provide major social and economic benefits to the wider community but also to the future residents of the estate.

The development shall provide new and affordable dwelling and employment opportunities within the Penrith LGA. This is considered to meet a real and currently unmet demand in the local area and therefore represents a significant positive social impact.

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

The site is considered to be suitable for the development proposed for the following reasons:

- The proposal is permissible with consent in the zones under the Penrith Local Environmental Plan 2010.
- The proposal is generally consistent with Penrith Development Control Plan 2014.
- The subdivision pattern is logical, orderly and compatible with the surrounding land uses and road network.
- Biodiversity areas are conserved within the open space and environmental zone.
- The proposal is able to effectively capture and drain storm water.
- Safe flood access into/out of the site can be achieved.

Section 4.15(1)(d) Any Submissions

Community Consultation

In accordance with Appendix F4 of Penrith Development Control Plan 2014, the proposed development was advertised in the local newspaper, notified to 277 nearby and adjoining property owners and residents, and publically exhibited between 1 November to 15 November 2019 and again between 13 April to 27 April 2020. A total of 8 unique submissions, that raised concern to the proposal and a proforma letter from 6 individuals was received in response. Additionally, 4 submission were received in support of the proposal from adjoining property owners. A summary of the matters raised in the submissions and a response to those matters is provided below.

Issue	Response
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<i>Biodiversity</i> • <i>Concern was raised regarding the preservation and protection of the kangaroos on site.</i> • <i>Concern raised that there is another critically endangered ecological community on the site that has not been identified and is proposed to be removed.</i> • <i>Concern that vegetation that supports vulnerable fauna is to be reduced/removed.</i> • <i>Concern that the area of vegetation to be preserved and protected within the open space is a conflicting notation as this is public recreation space.</i> • <i>Concern raised that the reports submitted do not adequately address the loss of native grassland.</i> • <i>Concern raised that if Council was to take care and ownership of the E2 Environmental Conservation zone on the site, that they do not have adequate funds to manage this.</i> • <i>Concern raised that the E2 Environmental Conservation zone on the site is to be acquired by Transport for NSW and vegetation will be removed.</i>	The flora and fauna reports that accompanied the Planning Proposal that led to the ultimate rezoning of the subject site and broader precinct stated: <i>"Scattered trees and some woodland are likely to be removed if development occurs on land identified for urban development under the draft structure plan. The proposal is to maintain the best quality and most extensive woodland on the site in a single reserve. This is a better outcome than attempting to preserve small scattered patches of woodland in an urban setting."</i> This view was ultimately accepted by Council and the Department of Planning and as such the loss of the identified vegetation is not considered to cause a significantly adverse environmental impact. Tree/woodland marked for retention/protection is mapped in the DCP as being in the E2 zoned portion of site and within the central park, which the proposal has satisfactorily demonstrated retention of. The proposed removal of vegetation was also approved by the Federal government's Department of Agriculture, Water and the Environment on the 29 July 2020, in accordance with Part 9 of the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act). Council's Senior Biodiversity Officer reviewed the documents and subsequent revised documents submitted with the application. They noted some data gaps and required additional reports - however they did believe that this information could be captured post consent and as such have recommended conditions of consent. In respect to the Kangaroos on site Council have recommended a condition of consent that requires a Fauna Management Plan to be lodged and approved prior to the issue of a Construction Certificate. This management plan is required to incorporate actions that mitigate impacts on native fauna and is to include clear measures that will be implemented by the proponent to facilitate fauna movement, including kangaroos. The ownership and potential acquisition of the E2 Environmental Conservation zone is not a planning matter to be assessed through this development application.
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<i>Increased traffic and parking</i> • <i>Significant concern about the performance of the existing road network particularly intersection of Werrington Road and Great Western Highway and with the increased traffic from the development.</i> • <i>Concern raised that the commuter carpark at the Werrington train station is already at capacity and this has resulted in commuters parking on local streets and the proposal adding to this problem.</i>	Council's Traffic Engineer has reviewed the proposal and accompanying Traffic Report, and agrees with the findings of the Traffic Report being that there is ongoing traffic congestion issues within the local road network. Consequently, the proposed works include the temporary extension of East-West Collector Road to meet the existing Werrington/Rance Road at a temporary roundabout. Council envision that the roundabout could operate up to and during the TfNSW Werrington Arterial Stage 2 provision works (clear of traffic) and then be suitably replaced by TfNSW. Council consider this reasonable and acceptable given that the applicant has demonstrated that the proposed East -West Collector/ Werrington/ Rance Road can operate safely and at an acceptable level of service. It is Council's position that Transport for NSW provision of the Werrington Arterial Stage 2 is required to address the ongoing traffic congestion in the area. While the proposal may result in minor additional traffic queue time, it is not reasonable to request additional upgrades/traffic resolution as there is no direct nexus between the development and the existing ongoing traffic congestion issues within the local road network. The subject site is approximately a 300m walking distance to the train station. It is envisioned that a large proportion of residents in the subject site will walk/ride bikes to the train station as the proposal will be well connected by footpaths and share ways. Additionally the site will be serviced by a bus route, providing additionally public transport services. It is not envisioned that the proposal will unreasonably impact on the existing commuter car parking for the train station.
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<i>Flooding</i> • <i>Concern raised that the existing area is prone to flooding and new development should not be located on flood prone land.</i> • <i>Concern raised that the proposal will worsen flooding effects to existing property/dwellings.</i> • <i>If development is to occur, where will flood waters be diverted to?</i>	There are two an existing overland flow paths within the site. The first being along Chapman Street and through the top portion of the E2 - Environmental conservation land. It is unlikely that there will be any changes to the flow conditions adjacent to the railway corridor. Stormwater pits will be located at the site boundary at Chapman Street to will capture some of the surface runoff into the pipe network, hence reducing the flow depth in Chapman Street. The second existing overland flow path is located primarily across proposed residue lot 2259, the top section of proposed road 07, the top half of the proposed Eastern Park and has a connection that diagonally runs through the site to Cobham Youth Justice Centre. This overland flow path will be replaced by the stormwater drainage network in East West Collector Road, which will convey stormwater to the east to Claremont Creek. The stormwater drainage network consists of a series of pit and pipe network ranges between 750mm diameter pipe to 1050mm pipes. It is anticipated that the development of the site and the proposed storm water drainage system will improve/reduce localized flooding within the site. Council's senior development engineer was also satisfied with the proposed works in respect to this matter.
<i>Loss of Open Space</i> • <i>Concern that there is no/limited open space in the area and the proposal will further decrease this.</i>	The proposal provides two open space areas and an environmental conservation area in accordance with the zoning of the precinct. The proposal is in accordance with Penrith Local Environmental Plan 2010 and is permissible with consent.
<i>Security Concerns</i> • <i>The proposed industrial lots may result in security concerns for the Cobham Youth Justice Facility including; views, objects being passed from these lots into the facility and not facilitating adequate access.</i>	A condition of consent is recommended for the proponent to liaise with Cobham Youth Justice Centre over views and security considerations. Following these discussions fencing details shall be submitted to Council for review and approval. It has also been established that there is adequate access within the Cobham Youth Justice Facility for emergency vehicles to access the perimeter of the site.

<i>Cooling the City</i> <i>The removal of mature vegetation is not in line with Council's Cooling the City Strategy.</i>	The proposal is in accordance with Penrith Local Environmental Plan 2010 and is permissible with consent. It is noted that site preparation work will require tree removal and this has been reviewed by the Federal Government and Council and was found to be satisfactory in this instance. The proposal indicates hundreds of new trees will be planted with a minimum pot size ranging from 400L to 100L.
<i>Overpopulation</i> <i>Concern that the development will result in overpopulation of the area and will drive out long term residents.</i>	The proposal is in accordance with Penrith Local Environmental Plan 2010 and does not yet meet the minimum densities as captured in Penrith Development Control Plan 2014 for this precinct.
<i>Road Layout</i> <i>With the proposed delivery of the East-West Collector Road it is not thought necessary to provide the North-South Link road through adjoining properties to the Great Western Highway, as this will impact on development potential of these adjoining properties.</i>	This is not a consideration for this Development Application. This is a Development Control Plan requirement that would need to be addressed and assessed in any future proposal that seeks to remove part of the North- South Link Road.
Impact on Adjoining Development - Council confirmation sought that the proposed basin in the subject application will also cater for the adjoining approval see - DA15/0207. - Seeking Council confirmation that the proposed roundabout in the subject application will address intersection requirements for the adjoining approval see - DA15/0207. - Concern raised that the invert level proposed by Civil plans to receive the stormwater discharge from adjoining development - DA15/0207 isn't low enough.	The basins proposed within the open spaces will cater for the subject proposal including the adjoining approved development at 25 Rance Road- DA15/0207. A condition of consent is recommended to ensure the drainage basin to the east of the development site as approved by the Land and Environment Court under DA15/0207, will be able to drain via gravity into proposed Drainage Basin A. Only one roundabout is required to service the precinct. As such, the roundabout proposed will be able to adequately cater for proposal and the adjoining approved development at 25 Rance Road- DA15/0207.

Referrals

The application was referred to the following stakeholders and their comments have formed part of the assessment:

Referral Body	Comments Received
Building Surveyor	No objections - subject to conditions
Development Engineer	Not supported, however conditions provided
Landscape Architect	No objections - subject to conditions
Environmental - Environmental management	No objections - subject to conditions
Environmental - Waterways	Not supported, however conditions provided
Environmental - Biodiversity	Not supported, however conditions provided
Waste Services	No objections - subject to conditions
Traffic Engineer	No objection subject to conditions

Section 4.15(1)(e)The public interest

The likely impacts of the proposal have been assessed as acceptable or have been addressed by way of recommended conditions of consent. Matters raised in submissions received have been taken into consideration as part of the assessment of the proposal, and where appropriate, have been addressed by way of amended plans and/or recommended conditions.

The proposed development is not considered to be in conflict with the key aims, objectives and controls of the applicable planning instruments and controls. In the context of the site and having regard to the likely environmental impacts of the development, the proposal is assessed as being acceptable. In this regard, the proposal is considered to be in the public interest.

Section 94 - Developer Contributions Plans

The following Section 7.11 plans apply to the site:

- Section 7.11 - Werrington Enterprise Living and Learning (WELL) Precinct

The proposed contributions are determined by the number of residential properties and total area of industrial lots.

Which is broken down as follows;

Type of Contribution	QTY	Rate	Amount
WELL Capped Contribution \$30,000	227	\$30,000	\$6,810,000
WELL SWUV Industrial Area Admin	4.08 ha	\$620	\$2,530
WELL SWUV Industrial Area Roadwork Land	4.08 ha	\$88,286	\$360,207
WELL SWUV Industrial Area Roadworks	4.08 ha	\$78,692	\$321,063

The total contribution amount is; **\$7,493,800.00**

Separate to this application, the applicant has submitted a letter of offer to enter into a Voluntary Planning Agreement (VPA) for Council's consideration and this is currently under review by Council's City Planning Team. Since the proposed offer has not yet been endorsed by Council, and is currently being reviewed, it is recommended that a condition of consent be imposed that would allow the flexibility for Council and the applicant to either enter a VPA or have contributions payable.

Conclusion

The proposal has been assessed against the relevant environment planning instruments and policies, including Penrith LEP 2010 and Penrith DCP 2014. The proposal is found to satisfy the aims and objectives of these policies.

The proposal will have an acceptable impact on the surrounding area and proposes a logical and orderly development which is generally compliant with Council's key development standards.

The NSW Department of Planning, Industry and Environment forecast that between 7500-15000 new dwellings will need to be supplied in the Penrith LGA between 2020 to 2023-24, the proposal represents a positive contribution to providing dwellings in the area to meet the continuing and rising demand.

The Greater Sydney Commission places a strong emphasis on the need for additional employment land, in land release areas, as a response to the long term population and development growth. This direction supports the philosophy of live and work areas. The proposal will accommodate 17 light industrial lots or 4.08 ha of light industrial area, this employment area will facilitate jobs in local area which will have a positive contribution on providing more local jobs.

The proposal is not contrary to the public interest and therefore the application is worthy of support, subject to the recommended conditions.

Recommendation

1. That DA19/0704 for the Staged Subdivision of Land to Create 227 Residential Lots, 17 Industrial Lots, Open Space Lots, 14 Residue Lots and Road Dedication. Works include Site Preparation, Vegetation Removal, Bulk Earthworks, Civil Works, Construction of Roads, Including the East-West Collector Road and Round-a-bout on Werrington Road, Stormwater Infrastructure and Basins at 16 Chapman Street and 2 Water Street, Werrington, be approved subject to the following conditions; and
2. That those individuals who made a submissions be notified of the determination.

CONDITIONS

General

- 1 The development must be implemented substantially in accordance with the following plans and any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

Drawing Title	Drawing No.	Prepared By	Revision	Date
Land Swap - Plan of Subdivision Sheet 1 of 2	-	Terry Edward Bartlett	-	13/11/2020
Land Swap - Plan of Subdivision Sheet 2 of 2	-	Terry Edward Bartlett	-	13/11/2020
Subdivision Plans	80219053-001-SK080 to 80219053-001-SK088	Cardno	Up to Revision 10	4/11/2020
Civil Works Plans	80219053-DA001-CI-1001 to 80219053-DA001-CI-3004	Cardno	Up to Revision 9	13/11/2020
Landscape Master Plan	SK-2	Place Design Group	04	13/11/2020
Street Tree Master Plan	SK-4	Place Design Group	04	13/11/2020
Street Tree Schedule	SK-5	Place Design Group	04	13/11/2020
Through Site Link 1 - Plan	SK-7	Place Design Group	04	13/11/2020
Through Site Link 2 - Plan	SK-8	Place Design Group	04	13/11/2020
Through Site Link 2 - Sections	SK-9	Place Design Group	04	13/11/2020
Through Site Link 3 - Plan	SK-10	Place Design Group	04	13/11/2020
Through Site Link 3 - Sections	SK-11	Place Design Group	04	13/11/2020
Through Site Link Planting Palette	SK-12	Place Design Group	04	13/11/2020
East-west Collector Road Section	SK-13	Place Design Group	04	13/11/2020
Material Schedule	SK-14	Place Design Group	04	13/11/2020
Typical Details - Hardscape	SK-15	Place Design Group	04	13/11/2020
Typical Details - Softscape	SK-16	Place Design Group	04	13/11/2020
Typical Stratavault Details	SK-17	Place Design Group	04	13/11/2020

- 2 The development is to be carried out generally in accordance with the stamped-approved plans and the staging strategy outlined in those plans, and accompanying documentation submitted in respect to this application.
- 3 A copy of the General Terms of Approval issued by the NSW Rural Fire Service under the Rural Fires Act 1997 shall be submitted to the Principal Certifying Authority, before the Construction Certificate can be issued for the same development. A copy of the approval shall be submitted to Penrith City Council with the copy of the Construction Certificate, if Council is not the Principal Certifying Authority.
- 4 The conditions imposed by the NSW Rural Fire Service in the Integrated Development consent and in the Bush Fire Safety authority for the said development are to be completed prior to the issue of an Occupation Certificate or in the case of subdivision, a Subdivision Certificate.
- 5 **Prior to the issue of a Construction Certificate**, an amended service overlay plan shall be submitted to Council to ensure there is no conflict between street trees, street furniture, bin presentation areas and driveways, etc.
- 6 Prior to the issue of a Subdivision Certificate, the following approved Development Applications shall be surrendered to Penrith City Council;
 - DA14/0627.02 - Section 96 Modification to an Approved Residential Subdivision and Ancillary Works to Amend Conditions of Consent, Stormwater Drainage. Determined (approved) by Land and Environment Court of NSW 21/12/2017
 - DA16/1148 - Torrens Title Subdivision into 94 Residential Allotments & 11 Industrial Allotments and Associated Road Works, Civil Works & Landscaping. Determined (approved) by Land and Environment Court of NSW 21/12/2017

Heritage/Archaeological relics

- 7 If any archaeological relics are uncovered during the course of the work no further work shall be undertaken until further directed by Penrith City Council or the NSW Heritage Office.

The applicant is advised that depending on the possible significance of the relics, an archaeological assessment and an excavation permit under the Heritage Act, 1977 may be required before any further work can be recommenced in that area of the site.

Environmental Matters

- 8 Erosion and sediment control measures shall be installed **prior to the commencement of works on site** including approved clearing of site vegetation. The erosion and sediment control measures are to be maintained in accordance with the approved erosion and sediment control plan(s) for the development and the Department of Housing's "Managing Urban Stormwater: Soils and Construction" 2004.

(Note: To obtain a copy of the publication, you should contact Landcom on (02) 98418600).

The approved sediment and erosion control measures are to be installed **prior to and maintained throughout the construction phase of the development until the land, that was subject to the works, have been stabilised and grass cover established.** These measures shall ensure that mud and soil from vehicular movements to and from the site does not occur during the construction of the development.

- 9 All land that has been disturbed by earthworks is to be spray grassed or similarly treated to establish a grass cover.
- 10 All construction waste materials stored on-site are to be contained within a designated area such as a waste bay or bin to ensure that no waste materials are allowed to enter the stormwater system or neighbouring properties. The designated waste storage areas shall provide at least two waste bays / bins so as to allow for the separation of wastes, and are to be fully enclosed when the site is unattended.
- 11 All excavated material and other wastes generated as a result of the development are to be re-used, recycled or disposed of in accordance with the approved waste management plan.

Waste materials not specified in the approved waste management plan are to be disposed of at a lawful waste management facility. Where the disposal location or waste materials have not been identified in the waste management plan, details shall be provided to the Certifying Authority as part of the waste management documentation accompanying the Construction Certificate application.

All receipts and supporting documentation must be retained in order to verify lawful disposal of materials and are to be made available to Penrith City Council on request.

- 12 Only clean and unpolluted water is to be discharged into Penrith City Council's stormwater drainage system. Liquid wastes suitable for discharge to the mains sewer are to be discharged in accordance with Sydney Water requirements.

If mains sewer is not available or if Sydney Water will not allow disposal to the sewer then a licensed waste contractor is to remove the liquid waste from the premises to an appropriate waste facility.

The waste contractor and waste facility are to hold the relevant licenses issued by the NSW Environment Protection Authority.

- 13 The 'Report on Fill Management Protocol: Proposed Residential Subdivision - 16 Chapman Street, Werrington, NSW' prepared by Douglas Partners Pty Ltd dated 1 October 2019 (Ref. 94571.00 R.001.Rev0) is to be implemented and adhered to during all fill importation works.

An appropriately qualified person/s shall:

- Supervise all filling works.
- (On completion of filling works) carry out an independent review of all documentation relating to the filling of the site, and submit a review findings report to Council and any Principal Certifying Authority. All fill material documentation is to (at minimum):
 - be prepared by an appropriately qualified person with consideration of all relevant guidelines, standards, planning instruments and legislation (e.g. EPA, NEPM, ANZECC, NH&MRC),
 - clearly state the legal property description of the fill material source site and the total amount of fill tested,
 - provide details of the volume of fill material to be used in the filling operations,
 - provide a classification of the fill material to be imported to the site in accordance with the NSW Environment Protection Authority's "Waste Classification Guidelines" 2014, and
 - (based on the fill classification) determine whether the fill material is suitable for its intended purpose and land use and whether the fill material will or will not pose an unacceptable risk to human health or the environment.
- Certify by way of a Compliance Certificate or other written documentation that fill materials have been placed on the site in accordance with all conditions of this consent and that the site will not pose an unacceptable risk to human health or the environment. A copy of the Compliance Certificate or other documentation shall be submitted to Council and any Principal Certifying Authority.

The contact details of any appropriately qualified person/s engaged for the works shall be provided with the Notice of Commencement.

If the Principal Certifying Authority or Penrith City Council is not satisfied that suitable fill materials have been used on the site, further site investigations or remediation works may be requested. In these circumstances the works shall be carried out prior to any further approved works.

{Note: An appropriately qualified person is defined as "a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, ecotoxicology, sampling and analytical procedures, risk evaluation and remediation technologies. In addition, the person will be required to have appropriate professional indemnity and public risk insurance."}

- 14 Dust suppression techniques are to be employed during demolition and construction to reduce any potential nuisances to surrounding properties.

- 15 Mud and soil from vehicular movements to and from the site must not be deposited on the road.

- 16 **Prior to the issue of a Construction Certificate or Commencement of Works (whichever occurs first),** an amended Vegetation Management Plan is to be submitted in its entirety to Penrith City Council's Environmental Health Department for review and approval.

The amended Vegetation Management Plan (VMP) is to incorporate the following;

- For baseline information, the VMP should specify that photo records, from fixed points, should commence from "time zero" i.e. at commencement of VMP.
- Given the status of the remnant native vegetation, and the duration of the VMP proposed, an adaptive

management framework shall be adequately incorporated within the VMP.

- The VMP shall indicate that all bushland/native vegetation restoration will be carried out to best practice standards as per “Recovering Bushland on the Cumberland Plain: Best practice guidelines for the management and restoration of bushland” (DECC, 2005).
- The VMP shall clearly incorporate the use of bush regenerators with a minimum qualification of a Certificate IV in Conservation and Land Management.
- Monitoring, and subsequent reporting shall be six monthly.

The amended Vegetation Management Plan shall also detail the following and include the following reports;

a) A Construction Environment Management Plan is to be prepared and implemented in relation to incorporating specific tree protection measures for trees to be retained.

b) A Fauna Management Plan, incorporating actions that mitigate impacts on native fauna. The Fauna Management Plan is to include clear measures that will be implemented by the proponent to facilitate fauna movement, including kangaroos.

c) A Cumberland Plain Woodland Seed Collection Strategy is to be developed and implemented under the guidance of an appropriately qualified ecologist and in compliance with seed collection licence and permit requirements.

d) Prior to the commencement of works, including the removal of any trees, an inspection of all trees scheduled for removal (including inspection of all hollows) for resident fauna is to be undertaken under the supervision of a fauna ecologist. Where possible, these fauna are to be removed and relocated in accordance with relevant guidelines and permits. Following the inspection, trees approved for removal are to be gently agitated and then lowered to the ground slowly when felling to allow any resident fauna time to escape and to ensure they aren't crushed by falling trees and branches. A local Wildlife rescue group are to be contacted in the case of any injured fauna. The inspection and subsequent removal of fauna shall be timed to minimise disturbance during target species breeding cycles.

e) An ecologist is to be engaged to develop a Nest Box Plan to install nest boxes within areas of remnant native vegetation to replace hollow bearing trees that have been removed. The Nest Box Plan must include consideration of type (relevant to the target species of the hollows that have been removed), number (relevant to the number of hollows removed), and location of nest boxes and a plan for installation and monitoring. An ecologist must certify that the nest boxes are designed and built to suit the target species in accordance with the Nest Box Plan.

f) A Bushfire Management Plan is to be developed and implemented for hazard reduction and asset protection. The area to be managed within the Asset Protection Zones (APZs) should be clearly indicated on a detailed plan to facilitate the undertaking of bushfire management actions within the APZ only and to prevent any modification to native vegetation beyond the APZ. A comprehensive risk management plan, incorporating mitigation measures to reduce the likelihood and impact of encroachment beyond the APZ, should be incorporated within the Bushfire Management Plan.

g) A Weed Management Plan is to be prepared for the areas proposed to be preserved and conserved as native vegetation on the site.

h) A Feral Animal Control and Monitoring Plan is to be prepared.

i) A fencing strategy is to be prepared so as to protect native vegetation areas proposed to be preserved and conserved on the site.

In addition the following matters should also be incorporated into the amended Vegetation Management Plan;

- No fill, machinery, or materials are to be placed or stored within the drip line of any tree that is to be retained.
- All trees that are required to be retained as part of the development are to be protected in accordance with the minimum tree protection standards as outlined in Australian Standard AS 4970-2009 'Protection of trees on development sites'.
- Vehicle/equipment wash-down areas or access tracks will not be located in or immediately adjacent to retained vegetation.
- For the purpose of providing fauna habitat, all trees that are scheduled for removal with a Diameter at Breast Height (DBH) of 30cm or greater, once felled in accordance with the Consent Conditions, are to be sawn into 2-6m lengths and relocated within remnant vegetation (outside of APZs), under the guidance of an ecologist.
- No exotic perennial grasses listed on the Final Determination of the NSW Scientific Committee for the key threatening process 'Invasion of native plant communities by exotic perennial grasses', shall be introduced, planted, sown or laid for landscaping or other purpose
- Temporary signage will be provided along all temporary fencing during the construction phase stating "Environmental Protection Zone – No Unauthorised Entry"

Once approved by Penrith City Council the recommendations of the Vegetation Management Plan, supporting management plans and strategies are to be implemented throughout the development and in perpetuity. A Restriction as to User shall be shown on the 88B instrument that details that the areas subject to the Vegetation Management Plan shall be maintained in perpetuity.

- 17 **Prior to the issue of the Construction Certificate**, a Construction Noise and Vibration Management Plan is to be prepared and submitted to Council for approval. This assessment is to consider (at minimum) the details of the construction program, construction methods, equipment and vehicles in association with the NSW Department of Environment and Climate Change's "Interim Construction Noise Guideline" 2009 and the "16 Chapman Street, Werrington: Precinct Subdivision - Noise Impact Assessment - Development Application" prepared by SLR Consulting Australia (Ref. 610.18940-R01 -v2.1, dated March 2020).

The recommendations of the approved Management Plan are to be implemented and adhered to during the construction phase of the development.

- 18 **Prior to the issue of the Subdivision Certificate for each Stage of the development**, a positive covenant is to be registered against the below Lots (as relevant to that Stage) that refers to the "16 Chapman Street, Werrington: Precinct Subdivision - Noise Impact Assessment - Development Application" prepared by SLR Consulting Australia (Ref. 610.18940-R01 -v2.1, dated March 2020).

Stage Lots

Stage 1A 1001-1064, 1068

Stage 1B 1200-1204, 1213-1216, 1225-1235, 1242-1251, 1255

Stage 2A 2000-2006, 2010-2016, 2022-2035, 2037, 2038

Stage 2B 2200-2204, 2210-2215, 2225-2236, 2240-2246, 2253-2258, 2259-2260

Stage 3 3001, 3006-3013

The covenant is also to:

- stipulate the noise criteria as outlined in the above document;
- acknowledge the requirement for the construction of double storey dwellings on Lots 1001-1003, 1027-1030, 1056, 1254, 1255, 2037, 2038 and 2260;
- provide advice on the mechanisms required for each lot to meet the noise criteria, as outlined in Section 5.1.4 of the "16 Chapman Street, Werrington: Precinct Subdivision - Noise Impact Assessment - Development Application" prepared by SLR Consulting Australia (Ref. 610.18940-R01 -v2.1, dated March 2020); and
- ensure that the noise criteria be achieved through the implementation of the recommendations of the "16 Chapman Street, Werrington: Precinct Subdivision - Noise Impact Assessment - Development Application" prepared by SLR Consulting Australia (Ref. 610.18940-R01 -v2.1, dated March 2020).

- 19 **Prior to the issue of the Construction Certificate for Stage 2A**, a further assessment of contamination is to be undertaken. This assessment is to reference the findings of the 'Supplementary Investigation - Shed, Proposed Residential Subdivision, 16 Chapman Street, Werrington, NSW' dated 26 February 2020 (Ref. 94571.00 R.001.Rev0) and is to be undertaken with consideration of the relevant NSW Environment Protection Authority's Contaminated Sites Guidelines and the National Environment Protection (Assessment of Site Contamination) Measure. The assessment is to include (but is not limited to):

- A detailed review of the site history.
- After the composting toilet and shed structure have been demolished, further sampling of the area below the composting toilet, as recommended in Section 5 of the above document.
- A clear statement confirming the suitability of the site for the proposed residential use.

The assessment is to be provided to Penrith City Council for approval. If Penrith City Council is not the certifying authority, a copy of Council's approval is to be submitted to the Private Certifying Authority. No works are to commence until the assessment has been submitted and approved by Penrith City Council.

Should it be identified in the assessment that remediation works are required to be undertaken on the site, a separate development application is to be submitted to Council for this work. No work on Stage 2A of the development is to proceed until such time as this new application has been approved by Council, and Council has approved the Validation Report associated with the remediation works

- 20 An Unexpected Finds Protocol (the Protocol) is to be developed by an appropriately qualified environmental consultant. **Prior to works commencing on site**, the Protocol is to be submitted to Council for approval. If Council is not the certifying authority for this development, the report is required to be provided to Penrith City Council for approval.

The Protocol is to address, at minimum, the management of any contamination found on the site during the demolition, excavation and construction phases of the development, including at minimum, contaminated soils, groundwater, buried building materials, asbestos, odour and staining.

The above Protocol is to be complied with at all times during the subdivision works. All remediation works within the Penrith Local Government Area are considered to be Category 1 works under State Environmental Planning Policy 55-Remediation of Land. Should any contamination be found during subdivision works and should remediation works be required, development consent is to be sought from Penrith City Council before the remediation works commence.

- 21 To prevent the introduction of weeds from seeds in mulch brought in from elsewhere, vegetation removed during construction shall be mulched for use on the subject site, where possible.
- 22 No native trees or other vegetation (including shrubs and other understory vegetation) are to be removed, ringbarked, cut, topped, lopped, slashed or wilfully destroyed (other than those shown on approved plans) without the prior consent of Penrith City Council
- 23 The following waste management requirements must be complied with and details of compliance demonstrated to Council **prior to the issue of a Construction Certificate**
- The 'temporary turning heads' (cul-de-sacs) proposed in stage 4 to be sealed and constructed to the same specifications of Major and Minor Connectors Roads. All temporary turning facilities to be removed when the final stage of the development is completed.
 - During construction, temporary turning facilities to be provide for each stage (1a/b, 2a/b, 3, 4a/b) to permit unobstructed access for Councils HRV eliminating the need to reverse to during scheduled weekly collections
 - Lots 1211 and 1212 to provide unobstructed bin presentation areas in accordance with section 4.1.3 of the 'Residential subdivisions waste management guideline' document.
 - All lots to provide an unobstructed bin presentation area large enough to accommodate 2x 240L bins. The minimum dimensions required are 2m wide by 1m deep. The proposed area to be identified on architectural plans and must not be obstructed by driveway access, street trees and on-street vehicle parking. The plans to be submitted to Councils waste and resource recovery department to conduct a review.
- 24 **Prior to the issue of an Subdivision Certificate** the following is to be submitted to and approved by Penrith City Council:
- The provision of regulatory signage labelled "No Parking - Waste and Removalist Vehicles Excepted" (R5-445 or R5-447 modified) is required to be installed within the cul-de-sacs for roads 11 & 12. A signage plan is to be submitted identifying the location of the parking restrictions to be endorsed by Council's Local Traffic Committee and adopted by Council prior to implementation.

Utility Services

- 25 All services (water, sewer, electricity, telephone and gas) are to be installed within the proposed public roads before final inspection of the engineering works.

Prior to the release of the linen plan, the following service authority clearances shall be obtained:

- a Section 73 Compliance Certificate under the Sydney Water Act 1994 shall be obtained from Sydney Water. This is required prior to the issue of the Subdivision Certificate and
- a letter from Integral Energy stating that satisfactory arrangements have been made for electricity supply to all proposed allotments in the subdivision, including any necessary easements; and
- a letter from an approved telecommunications service provider that satisfactory arrangements have been made for underground telephone services to all proposed allotments in the subdivision, including any necessary easements.

These clearances are to be submitted to the Principal Certifying Authority.

- 26 A Section 73 Compliance Certificate under the Sydney Water Act 1994 shall be obtained from Sydney Water. The application must be made through an authorised Water Servicing Coordinator. Please refer to “Your Business” section of Sydney Water’s website at www.sydneywater.com.au then the “e-developer” icon, or telephone 13 20 92.

The Section 73 Compliance Certificate must be submitted to the Principal Certifying Authority prior to the issue of a Subdivision Certificate.

- 27 Prior to the issue of a Construction Certificate, a written clearance is to be obtained from Endeavour Energy stating that electrical services have been made available to the development or that arrangements have been entered into for the provision of services to the development.

In the event that a pad mounted substation is necessary to service the development, Penrith City Council shall be consulted over the proposed location of the substation before the Construction Certificate for the development is issued as the location of the substation may impact on other services and building, driveway or landscape design already approved by Council.

- 28 **Prior to the issue of a Construction Certificate**, the Principal Certifying Authority shall be satisfied that telecommunications infrastructure may be installed to service the premises which complies with the following:

- The requirements of the Telecommunications Act 1997:
- For a fibre ready facility, the NBN Co’s standard specifications current at the time of installation; and
- For a line that is to connect a lot to telecommunications infrastructure external to the premises, the line shall be located underground.

Unless otherwise stipulated by telecommunications legislation at the time of construction, the development must be provided with all necessary pits and pipes, and conduits to accommodate the future connection of optic fibre technology telecommunications.

Prior to the issue of an Occupation Certificate, written certification from all relevant service providers that the telecommunications infrastructure is installed in accordance with the requirements above and the applicable legislation at the time of construction, must be submitted to the Principal Certifying Authority.

Construction

29 Prior to the commencement of construction works:

(a) Toilet facilities at or in the vicinity of the work site shall be provided at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be:

- a standard flushing toilet connected to a public sewer, or
- if that is not practicable, an accredited sewage management facility approved by the council, or
- alternatively, any other sewage management facility approved by council.

(b) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with the appropriate professional standards. All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

(c) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:

- must preserve and protect the building from damage, and
- if necessary, must underpin and support the building in an approved manner, and
- must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished. The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land, (includes a public road and any other public place).

(d) If the work involved in the erection or demolition of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place:

- if necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place,
- the work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place, and
- any such hoarding, fence or awning is to be removed when the work has been completed.

30 Construction works or subdivision works that are carried out in accordance with an approved consent that involve the use of heavy vehicles, heavy machinery and other equipment likely to cause offence to adjoining properties shall be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:

- Mondays to Fridays, 7am to 6pm
- Saturdays, 7am to 1pm (if inaudible on neighbouring residential premises), otherwise 8am to 1pm
- No work is permitted on Sundays and Public Holidays.

Other construction works carried out inside a building/tenancy and do not involve the use of equipment that emits noise are not restricted to the construction hours stated above.

The provisions of the Protection of the Environment Operations Act, 1997 in regulating offensive noise also apply to all construction works.

Engineering

- 31 All roadworks, stormwater drainage works, signage, linemarking, associated civil works and dedications, required to effect the consented development shall be undertaken by the applicant at no cost to Penrith City Council.
- 32 An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Penrith City Council's Public Infrastructure Assets. The bond is to be lodged with Penrith City Council prior to commencement of any works on site or prior to the issue of any Construction Certificate and Subdivision Works Certificate, whichever occurs first. The bond and applicable fees are in accordance with Council's adopted Fees and Charges.

An application form together with an information sheet and conditions are available on Council's website.

Contact Penrith City Council's City Works Department on 4732 7777 or visit Penrith City Council's website for more information.

- 33 Prior to the issue of any Construction Certificate, a Section 138 Roads Act applications, including payment of application and inspection fees, shall be lodged and approved by Penrith City Council (being the Roads Authority for any works required in a public road). These works may include but are not limited to the following:
- a) Road openings for lead in public utilities
 - b) Road occupancy or road closures
 - c) The placement of hoardings, structures, containers, waste skips, signs etc. in the road reserve
 - d) Temporary construction access

All works shall be carried out in accordance with the Roads Act approval, the development consent, including the stamped approved plans, and Penrith City Council's specifications, guidelines and best engineering practice.

Contact Penrith City Council's City Works Department on (02) 4732 7777 or visit Penrith City Council's website for more information.

Note:

- a) Where Penrith City Council is the Certifying Authority for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
- b) Separate approvals may also be required from the Roads and Maritime Services for classified roads.
- c) All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate or Subdivision Certificate as applicable

- 34 Prior to the issue of any Construction Certificate or Subdivision Works Certificate, the Certifying Authority shall ensure that a separate Section 138 Roads Act application, including payment of application and inspection fees, has been lodged with, and approved by Penrith City Council (being the Roads Authority under the Roads Act), for provision of:
- A roundabout and associated works in Werrington Road.
 - Road and drainage works within Walkers Street and Landers Street at the intersection with Road No 07.
 - Road and drainage works within Chapman Street
 - Drainage works within the road reserve of Webb Street.
 - Provision of an off road 2.5m wide shared path along Landers Street and Railway Street to link the shared path in Road No 07 to Werrington Railway Station.

The design of the roundabout in Werrington Road shall incorporate the following requirements:

- All vehicular turn paths are to include a 500mm clearance to any medians, kerbs, centre lines and adjacent lanes.
- The northern centre median in Werrington Road is to be extended a minimum of 7m past the intersection with Rance Road to prevent right turn movements into and out of Rance Road.
- The design of the roundabout shall consider flooding from South Creek for the 5% and 1% AEP flood events. Flood safe access to the development is to be accommodated.

The design of the road and drainage works in Chapman Street shall include the upgrade of the drainage line from Pit N01/1 to Pit ex01/2 to Pit ex01/1

Engineering plans are to be in accordance with the engineering plans by Cardno, reference 80219053-DA0001-CI, sheets 1001 to 3004, Revision 9, dated 13/11/2020 and be prepared in accordance with the development consent, Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments, Engineering Construction Specification for Civil Works, Austroads Guidelines, and best engineering practice.

Contact Penrith City Council's Development Engineering Department on 4732 7777 to obtain a formal fee proposal prior to lodgement and visit Penrith City Council's website for more information.

Note:

- Where Penrith City Council is the Certifying Authority for the development the Roads Act approval for the above works may be issued concurrently with the Construction Certificate or Subdivision Works Certificate.
- Separate approvals may also be required from the Roads and Maritime Services for classified roads.
- All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate or Subdivision Certificate as applicable.

- 35 Prior to the issue of any Construction Certificate, the Principal Certifying Authority and/ or Certifying Authority shall ensure that an application under Section 68 of the Local Government Act, including payment of application and inspection fees, has been lodged with, and approved by Penrith City Council for provision of an interallotment drainage system to service the rear courtyards of the existing townhouse development adjoining Stage 2B.

Engineering plans are to be prepared in accordance with the development consent, Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments, Engineering Construction Specification for Civil Works, Austroads Guidelines, and best engineering practice.

Contact Penrith City Council's Development Engineering Department on (02) 4732 7777 or visit Penrith City Council's website for more information.

Note:

- a) All works associated with the S68 Local Government Act Approval must be completed prior to the issue of any Occupation Certificate or Subdivision Certificate as applicable.

- 36 A Subdivision Works Certificate is to be approved by the Certifying Authority for the provision of engineering works (road, drainage, earthworks, subdivision works).

A Subdivision Works Certificate shall be issued for any subdivision works.

Prior to the issue of any Subdivision Works Certificate, the Certifying Authority shall ensure that engineering plans are consistent with the stamped approved concept plan/s prepared by Cardno, reference number 80219053-DA001-CI, sheets 1001-3004, revision 9, dated 13/11/2020 and that all subdivision works have been designed in accordance with the development consent, Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments, Engineering Construction Specification for Civil Works, Austroads Guidelines and best engineering practice.

The subdivision works may include but are not limited to the following:

- Public and private roads
- Storm water management (quantity and quality)
- Interallotment drainage
- Private access driveways
- Sediment and erosion control measures
- Flood control measures
- Overland flow paths
- Traffic facilities
- Earthworks
- Bridges, culverts, retaining walls and other structures
- Landscaping and embellishment works

The Construction Certificate must be supported by engineering plans, calculations, specifications and any certification relied upon.

Note:

- a) Council's Development Engineering Department can provide this service. Contact Penrith City Council's Development Engineering Department on (02) 4732 7777 or visit Penrith City Council's website for more information.

- 37 Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that the proposed roads have been designed in accordance with Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments, Engineering Construction Specification for Civil Works and the following criteria:

Road Type	Road No.	Road Reserve Width	Carriageway Width	Verge Width	Footpath (1.5m wide) Min.	ESA
Minor Local	01, 02, 03, 04, 05, 06, 10	16.6m	9.0m	3.8m	1.5m both sides	5 x 10 ⁴
Local	09	18.1m	10.5m	3.8m	1.5m both sides	5 x 10 ⁵
Local	08	18.1m	11.0m	3.8m	1.5m both sides	5 x 10 ⁵
Local	13 (Ch 0 - Ch 50)	Variable	10.5m	3.8m (west) Variable (east)	1.5m both sides	5 x 10 ⁵
Local	13 (Ch 50 - Ch 81.818)	Variable	10.5m	Variable	1.5m (east)	5 x 10 ⁵
Minor Collector	07	20.6m	12.0m	4.8m (east); 3.8m (west)	2.5m shared path (east); 1.5m (west)	5 x 10 ⁵
Minor Collector	12	19.6m	12.0m	3.8m	1.5m both sides	5 x 10 ⁶
Major Collector	11 (Ch 0 - Ch 540)	25.0m	14.0m	7.0m (north); min 4.0m (south)	2.5m shared path (north); 1.5m (south)	5 x 10 ⁶
Major Collector	11 (Ch 540 - Ch 970.803)	24.0m	14.0m	6.0m (north); Min 4.0m (south)	2.5m shared path (nirth); 1.5m (south)	5 x 10 ⁶

A copy of the pavement design prepared and certified by a suitably qualified geotechnical engineer must accompany the application for Construction Certificate.

- 38 A Stage 3 (detailed design) Road Safety Audit (RSA) shall be undertaken in accordance with Austroads Guide to Road Safety Part 6: Road Safety Audit on the proposed roadworks by an accredited auditor who is independent of the design consultant. A copy of the RSA shall accompany the design plans submitted with the Construction Certificate or Roads Act application.

Prior to the issue of the Construction Certificate or Section 138 Roads Act approval, the Certifying Authority shall ensure that the recommendations of the RSA have been considered in the final design, through review of the Road Safety Audit Checklist, including Findings, Recommendations and Corrective Actions.

A copy of the Road Safety Audit shall be submitted to Penrith City Council by the applicant or Certifying Authority for information purposes.

- 39 The stormwater management system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by Cardno, reference number 80219053-DA001-CI, sheets 1001-3004, revision 9, dated 13/11/2020.

Engineering plans and supporting calculations for the stormwater management systems are to be prepared by a suitably qualified person and shall accompany the application for a Construction Certificate.

Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that the stormwater management system has been designed in accordance with Penrith City Council's Stormwater Drainage for Building Developments and Water Sensitive Urban Design (WSUD) policies.

- 40 Prior to the issue of any Subdivision Works Certificate, the Certifying Authority shall ensure that flood safe access is available from a public road to the subdivision development for all flood events up to and including the 1% AEP flood event from South Creek. Penrith Development Control Plan 2014 defines Flood Safe Access as access that is generally considered satisfactory when the depth of flooding over vehicular driveways and roads is limited to approximately 0.25 metres with low velocities. Any road upgrade works in Werrington Road will require a Section 138 Roads Act approval from Penrith City Council. Full details are to be submitted with the application for a Subdivision Works Certificate.

- 41 Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that vehicular access, circulation, manoeuvring, pedestrian and parking areas associated with the subject development are in accordance with AS 2890.1, AS2890.2, AS2890.6 and Penrith City Council's Development Control Plan.

42 Prior to the commencement of any works on-site (including demolition works) or prior to the issue of any Construction Certificate or Subdivision Works Certificate, whichever occurs first, a Construction Traffic Management Plan (CTMP) shall be submitted to Council's City Assets Department for endorsement. The CTMP shall be prepared by a suitably qualified consultant with appropriate training and certification from the Roads & Maritime Services (RMS). The CTMP shall include details of any required road closures, work zones, loading zones and the like. Approval of the CTMP may require approval of the Local Traffic Committee. Please contact Council's City Assets Department on 4732 7777 and refer to Council's website for a copy of the Temporary Road Reserve Occupancy Application Form.

43 Prior to the issue of a Roads Act Approval, a Performance Bond is to be lodged with Penrith City Council for the construction of a roundabout and associated works in Werrington Road and road and drainage works in Chapman Street.

The value of the bond shall be determined in accordance with Penrith City Council's adopted Fees and Charges.

Note:

- Contact Penrith City Council's Development Engineering Department on 4732 7777 for further information relating to bond requirements.

44 Prior to commencement of any works associated with the development, sediment and erosion control measures shall be installed in accordance with the approved Construction Certificate and to ensure compliance with the Protection of the Environment Operations Act 1997 and Managing Urban Stormwater series from the Office of Environment and Heritage.

The erosion and sediment control measures shall remain in place and be maintained until all disturbed areas have been rehabilitated and stabilised.

- 45 Prior to commencement of any works associated with the development, a Traffic Control Plan, including details for pedestrian management, shall be prepared in accordance with AS1742.3 "Traffic Control Devices for Works on Roads" and the Roads and Maritime Services' publication "Traffic Control at Worksites" and certified by an appropriately accredited Roads and Maritime Services Traffic Controller.

Traffic control measures shall be implemented during the construction phase of the development in accordance with the certified plan. A copy of the plan shall be available on site at all times.

Note:

- a) A copy of the Traffic Control Plan shall accompany the Notice of Commencement to Penrith City Council.
- b) Traffic control measures may require road occupancy / road closure approvals issued under Section 138 of the Roads Act by Penrith City Council prior to the issue of a Construction Certificate.

- 46 Work on the subdivision shall not commence until:

- a Subdivision Works Certificate has been issued,
- a Principal Certifier has been appointed for the project, and
- any other matters prescribed in the development consent for the subdivision and the Environmental Planning and Assessment Act and Regulation have been complied with.

A Notice of Commencement of works is to be submitted to Penrith City Council five (5) days prior to commencement of engineering works or clearing associated with the subdivision.

- 47 Street lighting is to be provided for all new and existing streets within the proposed subdivision to Penrith City Council's standards.
- 48 All earthworks shall be undertaken in accordance with AS 3798 and Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments and Engineering Construction Specification for Civil Works.

The level of testing shall be determined by the Geotechnical Testing Authority/ Superintendent in consultation with the Principal Certifying Authority.

- 49 Soil Testing is to be carried out to enable each lot to be classified according to AS2870 "Residential Slabs and Footings". The results shall be submitted to Penrith City Council prior to the issue of the Subdivision Certificate.

- 50 Upon completion of all works in the road reserve, all verge areas fronting and within the development are to be turfed. The turf shall extend from the back of kerb to the property boundary, with the exception of concrete footpaths, service lids or other infrastructure which is not to be turfed over. Turf laid up to concrete footpaths, service lids or other infrastructure shall finish flush with the edge.
- 51 All existing (aerial) and proposed services for the development, including those across the frontage of the development are to be located or relocated underground in accordance with the relevant authorities regulations and standards.
- 52 Prior to the issue of any Subdivision Certificate, the Principal Certifying Authority shall ensure that all works associated with a S138 Roads Act approval or S68 Local Government Act approval have been inspected and signed off by Penrith City Council.
- 53 Prior to the issue of a Subdivision Certificate, the Principal Certifying Authority shall ensure that all subdivision works required by this consent have been satisfactorily completed or that suitable arrangements have been made with Penrith City Council for any outstanding works.
- 54 Prior to the issue of a Subdivision Certificate and installation of regulatory / advisory linemarking and signage, plans are to be lodged with Penrith City Council and approved by the Local Traffic Committee.

Notes:

- a) Contact Penrith City Council's Engineering Services Department on (02) 4732 7777 for further information on this process.
- b) Allow eight (8) weeks for approval by the Local Traffic Committee.
- c) Applicable fees are indicated in Council's adopted Fees and Charges

- 55 Prior to the issue of a Subdivision Certificate, an application for proposed street names must be lodged with and approved by Penrith City Council and the signs erected on-site.

The proposed names must be in accordance with Penrith City Council's Street Naming Policy.

Notes:

- Contact Penrith City Council's Engineering Services Department on 4732 7777 for advice regarding the application process and applicable fees.
- Allow eight (8) weeks for notification, advertising and approval.

- 56 Prior to the issue of the Subdivision Certificate, a bond for the final layer of outstanding asphalt works (AC Bond) is to be lodged with Penrith City Council.

The final layer of asphalt on all roads shall not to be placed without the written consent of Penrith City Council (consent will generally be provided when 80% of the housing within the subdivision has been completed).

The value of the bond shall be determined in accordance with Penrith City Council's adopted Fees and Charges.

Note:

- Contact Penrith City Council's Engineering Services Department on 4732 7777 for further information relating to bond requirements.

- 57 Prior to the issue of the Subdivision Certificate, Outstanding Works Bonds for the construction, landscaping and implementation of the final water quality basins are to be lodged with Penrith City Council.

The Outstanding Works bonds will be refunded once the stormwater management system works have been completed to Penrith City Council's satisfaction and a separate Maintenance Bond has been lodged with Penrith City Council.

The value of the bonds shall be determined in accordance with Penrith City Council's adopted Fees and Charges.

Note:

- Contact Penrith City Council's Engineering Services Department on 4732 7777 for further information relating to bond requirements.

- 58 Prior to the issue of a Subdivision Certificate a Maintenance Bond is to be lodged with Penrith City Council for all subdivision works.

The value of the bond shall be determined in accordance with Penrith City Council's adopted Fees and Charges.

Note:

- Contact Penrith City Council's Engineering Services Department on 4732 7777 for further information relating to bond requirements.

59 Prior to the issue of a Subdivision Certificate, the following compliance documentation shall be submitted to the Principal Certifying Authority. A copy of the following documentation shall be provided to Penrith City Council where Penrith City Council is not the Principal Certifying Authority:

- a) Works As Executed (WAE) drawings of all civil works. The WAE drawings shall be marked in red on copies of the stamped Subdivision Works Certificate drawings signed, certified and dated by a registered surveyor or the design engineer. The WAE drawings shall be prepared in accordance with Penrith City Council's Engineering Construction Specification for Civil Works.
- b) The WAE drawings shall clearly indicate the 1% Annual Exceedance Probability flood lines (local and mainstream flooding).
- c) The WAE drawings shall be accompanied by plans indicating the depth of cut / fill for the entire development site. The survey information is required to show surface levels and site contours at 0.5m intervals. All levels are to be shown to AHD.
- d) CCTV footage in DVD format to Penrith City Council's requirements and a report in "SEWRAT" format for all drainage as identified as Council's future assets. Any damage that is identified is to be rectified in consultation with Penrith City Council.
- e) A copy of all documentation, reports and manuals required by Section 2.6 of Penrith City Council's WSUD Technical Guidelines for handover of stormwater management facilities to Penrith City Council.
- f) Surveyor's Certificate certifying that all pipes and services are located wholly within the property or within appropriate easements and that no services encroach boundaries, private or public lands.
- g) Documentation for all road pavement materials used demonstrating compliance with Penrith City Council's Engineering Construction Specification for Civil Works.
- h) A Geotechnical Report certifying that all earthworks and road formation have been completed in accordance with AS3798 and Penrith City Council's Design Guidelines and Construction specifications. The report shall include:
 - Compaction reports for road pavement construction.
 - Compaction reports for bulk earthworks and lot regarding.
 - Soil classification for all residential lots.
 - Statement of Compliance.
- i) Structural Engineer's construction certification of all structures.
- j) A slope junction plan for inter-allotment drainage lines indicating distances to boundaries and depths.
- k) Soil testing for each lot to be classified according to AS2870 "Residential Slabs and Footings".

- 60 Upon conversion of the sediment basins to bio-filtration basins, the stormwater water quality basins shall continue to be operated and maintained by the proponent for the agreed maintenance period in accordance with the final operation and maintenance management plan.

Regular inspection records are required to be maintained and made available to Penrith City Council on request. All necessary improvements are required to be made immediately upon awareness of any deficiencies in the stormwater management systems. A copy of all inspection records and maintenance records shall be provided to Penrith City Council at the completion of the maintenance period and prior to handover of the assets to Penrith City Council.

- 61 Prior to the issue of a Subdivision Certificate for Stage 1A, the roundabout at Rance Road / Werrington Road shall be constructed and operational for three legs, being the north and south Werrington Road legs and the Rance Road leg. The fourth leg, being the connection to Road No 11, may be delivered as a stub connection to the roundabout. The construction and connection of the internal Road No 11 (from Road No 7 to the roundabout) is to be delivered prior to the issue of a Subdivision Certificate for Stage 2A.

- 62 Prior to the issue of a Subdivision Works Certificate, the Certifying Authority shall ensure that all proposed industrial lots are able to be adequately drained to the street stormwater system. Full details are to be submitted with the application for a Subdivision Works Certificate.

- 63 Prior to the handover of the stormwater treatment infrastructure, Council requires that all requirements outlined in section 2.7 of Council's Water Sensitive Urban Design (WSUD) Guidelines (Version 4) are met. These include (but are not limited to) the following:

- The WSUD assets / measures are constructed and operate in accordance with the approved design specifications / parameters and any other specific design agreements previously entered into with Council
- The performance of the WSUD measure(s) has been validated, which must include the provision of a Performance Validation Report supporting the performance of the WSUD measure
- Where applicable, the build-up of sediment has resulted in no more than a 10% reduction of operational volume
- Asset inspections for defects has been completed and, if any defects are found, rectified to the satisfaction of Council
- The WSUD infrastructure is to the satisfaction of Council, structurally and geotechnically sound (this will require the submission of documents demonstrating that such infrastructure has been certified by suitably qualified persons)
- Design drawings have been supplied in a format acceptable to Council
- Works as Executed (WAE) drawings have been supplied for all infrastructure in a format and level of accuracy acceptable to Council
- Other relevant digital files have been provided (e.g. design drawings, surveys, bathymetry, models etc)
- Landscape designs have been supplied, particularly those detailing the distribution of functional vegetation, i.e. vegetation that plays a role in water quality improvement (clearance certificates from the landscape architect will need to be supplied)
- The condition of the infrastructure and associated with the land complies with the approved design specification.
- Vegetation densities in bioretention systems and surrounding vegetated areas (i.e. batters) should

have a coverage of >95% and be >95% weed free. This is to be certified by a suitably qualified ecologist / horticulturalist with 5 years relevant experience.

- Comprehensive operation and maintenance manuals (including indicative costs) have been provided
- Inspection and maintenance forms provided.
- Vegetation establishment period successfully complete (3 years unless otherwise approved by Council).
- Copies of all required permits (both construction and operational) have been submitted.

Prior to the handover of the bioretention system, the following will must be completed:

A Geotechnical Engineer must be engaged by the developer to undertake in-situ Saturated Hydraulic Conductivity Testing of the bioretention system in accordance with Practise Note 1 of the FAWB guidelines. Test points are to be spatially distributed. Where the hydraulic conductivity of the filter media differs from the rate specified in MUSIC of 125 mm/hr (tolerance -0% to a maximum of 400mm/hr), remediation works will be required over the whole filter area to restore the conductivity and the test repeated in different locations until the hydraulic conductivity is achieved. A Geotechnical Engineer is to then certify that in accordance with Practise Note 1 of the FAWB guidelines, the Saturated Hydraulic Conductivity is within tolerance of the rate specified in MUSIC for the bioretention system; and

- A Horticulturalist or ecologist that has relevant tertiary qualifications and technical knowledge with a minimum of five (5) years demonstrated experience, is to certify that the planting within the bioretention area including bank areas, is of the same quality in type and quantity as per the construction certificate approved landscape plans, that any plants lost have been replaced the area is free of rubbish and that any areas of scour or disrepair have been restored.

64 The bio-retention basin is to be maintained by the proponent as a sediment basin until 90% of housing construction is completed and retain in the ownership of the proponent. After 90% of housing has been constructed the sediment basin is to be decommissioned and the bio-retention basin completed. After completion of the bio-retention basin has occurred, the proponent is to maintain the bio-retention basin for a period of 3 years after which time handover is permitted (see separate conditions relating to handover).

65 **Prior to the issue of a Subdivision Works Certificate**, the following information is to be submitted to Council for review

- Council should be given an opportunity to review and approve the proposed GPT so that considerations of the life cycle costs can be made. The proponent should provide Council with a detailed operation and maintenance manual which includes estimated costing. This should also include details on any access bays for the maintenance of the GPTs
- Detailed construction plans including all calculations, drawings and designs which are consistent with the design parameters used in the modelling and approved concept designs from the Development Application.

66 Handover of the assets to Council will not occur until Council is satisfied that they are constructed in with the approved plans, conditions of approval and all certification requirements have been complied with:

- a) Vegetated systems (e.g. bioretention measure/s) are required to remain 'on maintenance' for a minimum period of three (3) years or as otherwise approved and a performance-based inspection has been undertaken with Council.
- b) The on-maintenance period for all vegetated systems can be considered as on-maintenance once 90% of dwellings are substantially completed within the development sub-catchment associated with the relevant treatment measure.
- c) Certification is required to be provided for the installation of the filter media to demonstrate that the media complies with the approved specifications. At a minimum compliance is required with the "Guidelines for Soil Filter Media in Bioretention Systems" (Facility for Advancing Water Biofiltration).
- d) Photographs of the construction of the vegetated system are required as part of certification. A minimum of one labelled, date stamped photograph is required to be provided following each of the following construction phases:
 - i. Installation of the overflow pit and bulking out / trimming profiling
 - ii. Installation of under drainage
 - iii. Installation of clean out points
 - iv. Installation of drainage layer
 - v. Installation of transition layer
 - vi. Installation of filtration media
 - vii. Final planting
- e) A licensed surveyor is required to undertake an 'as constructed' survey of the bioretention device elements. The survey data is to demonstrate that design grades and levels have been achieved to the required tolerances. A copy of the survey is required to be lodged as part of the certification.
- f) During the establishment and maintenance period, regular maintenance must be undertaken on the stormwater treatment measures by suitably qualified contractors (i.e. horticulturists / ecologists) in accordance with an approved maintenance schedule. During the 3-year maintenance period, the developer is to submit to Council's Asset Management Department, a quarterly report outlining all maintenance activities undertaken on the Stormwater treatment measures. This is to be prepared by a suitably qualified engineer, ecologist / horticulturalist with 5 years relevant experience.

67 Prior to the issue of a Subdivision Works Certificate, the Certifying Authority shall ensure that:

- The vertical and horizontal design of Road No 13 aligns with and adjoins the North South No 3 road as approved by the Land and Environment Court under Development Application number DA15/0207.
- Drainage Basin A has been designed to accommodate stormwater drainage of the adjoining subdivision to the east as approved by the Land and Environment Court under Development Application number DA15/0207.

Full details are to be shown with the application for a Subdivision Works Certificate.

68 Prior to the issue of a Subdivision Works Certificate, the Certifying Authority shall ensure that:

- Any retaining wall and associated footings are wholly contained within the lot or road that the retaining wall supports.
- Any retaining wall adjoining a public road or public space shall incorporate appropriate pedestrian and vehicular safety barriers in accordance with Austroads, Australian Standards and the Building Code of Australia.
- Any retaining wall supporting a public road shall be designed as a s block retaining wall or reinforced concrete wall. Any reinforced concrete wall shall incorporate a facade that is acceptable to Penrith City Council.

Full details are to be submitted with the application for a Subdivision Works Certificate.

69 The plan of subdivision is to be supported by an 88B Instrument requiring dedication of an easement for support and maintenance over private lands for any retaining wall supporting a public road. Full details are to be included with the application for a Subdivision Certificate.

70 The design of drainage Basin C and the drainage outlet at Pit A01/1 into Claremont Creek shall consider the tail water levels from South Creek flooding for the 5% and 1% AEP flood events. Full details are to be submitted with the application for a Subdivision Works Certificate.

71 Prior to the issue of a Subdivision Works Certificate, the Certifying Authority shall ensure that the design of any access bays for the maintenance of Gross Pollutant Traps (GPT's) are located clear of any pedestrian pathways. Full details are to be submitted with the application for a Subdivision Works Certificate.

72 Prior to the issue of a Subdivision Works Certificate the Certifying Authority shall ensure that all lots are serviced by a maximum 3.0m wide gutter crossing. Full details are to be submitted with the application for a Subdivision Works Certificate.

Landscaping

- 73 All landscape works are to be constructed in accordance with the stamped approved plans and the requirements of Chapter C6 Landscape Design of Penrith Development Control Plan 2014.

Landscaping shall be maintained:

- in accordance with the approved plan, and
- in a healthy state, and
- in perpetuity by the existing or future owners and occupiers of the property.

If any of the vegetation comprising that landscaping dies or is removed, it is to be replaced with vegetation of the same species and, to the greatest extent practicable, the same maturity, as the vegetation which died or was removed.

- 74 Upon completion of the landscape works associated with the development and **prior to the issue of an Subdivision Certificate** for the development, an Implementation Report must be submitted attesting to the satisfactory completion of the landscaping works for the development.

An Subdivision Certificate shall not be issued until such time as a satisfactory Implementation Report has been received. If Penrith City Council is not the Principal Certifying Authority, a copy of the satisfactory Implementation Report is to be submitted to Council together with the Subdivision Certificate for the development.

- 75 All plant material associated with the construction of approved landscaping is to be planted in accordance with the Tree Planting Specification prescribed in Chapter C6 Landscape Design of Penrith Development Control Plan 2014.

- 76 All landscape works are to meet industry best practice and the following relevant Australian Standards:

- AS 4419 Soils for Landscaping and Garden Use,
- AS 4454 Composts, Soil Conditioners and Mulches, and
- AS 4373 Pruning of Amenity Trees.

- 77 All trees that are required to be retained as part of the development are to be protected in accordance with the minimum tree protection standards prescribed in Chapter C6 Landscape Design of Penrith Development Control Plan 2014

- 78 No trees are to be removed, ringbarked, cut, topped or lopped or wilfully destroyed (other than those within the proposed building footprint or as shown on the approved plans) without the prior consent of Penrith City Council and in accordance with Council's Tree Preservation Order and Policy.

- 79 No trees are to be removed from within the subdivision without the prior consent of Penrith City Council. Any trees to be removed as part of the engineering work are to be shown on engineering plans submitted for Council's consideration and subsequent approval.

- 80 **Prior to the issue of a Subdivision Certificate**, details and sections of fencing along the boundary of the subject site and Cobham Youth Justice Centre site for stages 4A & 4B shall be submitted to Penrith City Council for review and approval. The applicant is to liaise with Cobham Youth Justice Centre in addressing views into the site as well as security considerations. The fencing treatment shall also have regard to its presentation to the surrounding precinct and may contain sections that are open in nature.
- 81 The tree planting specification titled "Typical Advanced Tree Planting Detail - Tree in Paved Areas - Figure 1" as detailed in Penrith City Council's "Street and Park Tree Management Plan Appendix" is to be employed for all street tree planting.
- 82 **Prior to the issue of a Construction Certificate**, the street tree planting schedule shall be updated to remove the proposed street trees (*liquidambar styraciflua*, *jacaranda mimosifolia* & *linodendron tulipifera*) along the east west collector road or road 11 and replace with tree/s species from the following list with a minimum pot size of 100L;
- *Bauhinia variegata*
 - *Brachychiton populneus*
 - *Callistemon* cv.
 - *Cupaniopsis anacardioides*
 - *Lagerstroemia indica*
 - *Lophostemon confertus*
 - *Melaleuca bracteata*
 - *Melaleuca decora*
 - *Melaleuca linariifolia*
 - *Quercus ilex*
 - *Tristaniopsis laurina*
 - *Ulmus parvifolia*

Subdivision

- 83 Work on the subdivision is not to commence until:
- a Construction Certificate has been issued,
 - a Principal Certifying Authority has been appointed for the project, and
 - any other matters prescribed in the development consent for the subdivision and the Environmental Planning and Assessment Act and Regulation have been complied with.
- Penrith City Council is to be notified 48 hours prior to commencement of engineering works or clearing associated with the subdivision.
- 84 The proposed subdivision shall not encroach on any statutory boundary clearances or setbacks. A plan prepared by a registered surveyor showing the relative position of all buildings to the proposed boundaries shall be submitted to the Principal Certifying Authority.

85 **Prior to the issue of the Subdivision Certificate**, the following is to be submitted:

An original plan of subdivision and two (2) copies of the plan. The plan of subdivision must indicate, where relevant -

- All drainage easements, rights of way, restrictions and covenants.
- All proposed dedications of roads/drainage/public reserve, which are to be undertaken at no cost to Penrith City Council.

The following information is to be shown on one (1) copy of the plan.

- The location of all buildings and/or other permanent improvements shall comply with any statutory boundary clearances or setbacks as defined by the Building Code of Australia and Council's resolutions.
- All existing services are wholly contained within the lot served and/or covered by an appropriate easement.

Prior to lodgement of the Subdivision Certificate Application, street address numbering must be obtained/approved by Penrith City Council's Rates Team. Proposed street addresses can be forwarded to council@penrith.city for approval.

86 The linen plan of subdivision is to be supported by an 88B instrument creating a Restriction as to User or easement regarding but not limited to the following:

a) Easement for support-the provision of an easement of support to cover all embankments that extend into the lots if the batters are steeper than 5:1.

b) Restriction as to User for Residue Allotments - no development or building shall be allowed or be permitted to remain on the named lot unless satisfactory arrangements have been made with Penrith City Council for services (water, sewer, electricity and telephone), any outstanding contributions or consolidation with adjoining lots.

c) Restriction as to User -Proposed lots 3002, 3003 and 3006 to 3008 are to have open style fencing set behind a 1 metre landscape edge to the second street frontage.

d) Easement for right of carriageway - is to be created for the access off proposed road 01 for proposed lots 1211 and 1212. This is to be a private driveway for access to proposed lots 1211 and 1212. Maintenance and ongoing cost of this driveway is to be shared between proposed lots 1211 and 1212.

Council shall be nominated as the only authority permitted to modify, vary or rescind such restrictions as to user.

87 A Surveyors Certificate is to be lodged with the application for a Subdivision Certificate that certifies that all pipes and services are located wholly within the property or within appropriate easements and that no services encroach boundaries.

Development Contributions

- 88 This condition is imposed in accordance with Penrith City Council's Section 7.11 Contributions Plan for Werrington Enterprise Living and Learning (WELL) Precinct. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$7,493,800.00 is to be paid to Council prior to a Subdivision Certificate being issued** for this development (the rates are subject to quarterly reviews).

Alternatively, the proponent may seek to enter into a Voluntary Planning Agreement with Penrith City Council for the subject development/site

If a VPA is endorsed by Penrith City Council and Prior to the issue of a Subdivision Certificate, a matrix table shall be submitted to and endorsed by Penrith City Council detailing any infrastructure works, development contributions and/or land dedications required as a result of this development consent pursuant to the subject VPA. All applicable infrastructure works, development contributions and/or land dedications shall be completed prior to (or concurrently with, in the case of land dedications) the issue of a Subdivision Certificate or as detailed in the endorsed matrix table.

N.B. If the proponent opts to pay Section 7.11 Contributions Plan under the Werrington Enterprise Living and Learning (WELL) Precinct if contributions are not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 7.11 Contributions plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The S7.11 invoice accompanying this consent should accompany the contribution payment.

The timing of contributions payable may be otherwise affected in accordance with Planning Circular PS20-003 dated 3 July 2020 and the associated NSW Government Ministerial Direction - Infrastructure Contributions.

Certification

- 89 A Subdivision Certificate is to be obtained prior to the release of the linen plan of subdivision. The Subdivision Certificate will not be issued if any of the conditions in this consent are outstanding.
- 90 Prior to the commencement of any earthworks or construction works on site, the proponent is to:
- (a) employ a Principal Certifying Authority to oversee that the said works carried out on the site are in accordance with the development consent and related Construction Certificate issued for the approved development, and with the relevant provisions of the Environmental Planning and Assessment Act and accompanying Regulation, and
 - (b) submit a Notice of Commencement to Penrith City Council.

The Principal Certifying Authority shall submit to Council an "Appointment of Principal Certifying Authority" in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

Information to accompany the Notice of Commencement

Two (2) days before any earthworks or construction/demolition works are to commence on site (including the clearing site vegetation), the proponent shall submit a "Notice of Commencement" to Council in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part C - City-wide Controls

It is noted that there is a precinct specific DCP chapter - E12 Penrith Health and Education Precinct, Part C - South Werrington Urban Village. This chapter details site specific controls that are most applicable to the site.

However, the proposal still generally complies to the city wide DCP objectives and controls. Further comments below highlight important aspects that warrant further discussion;

C6 Landscape Design

The proposal generally satisfies this chapter of the DCP and includes the following landscaping;

- Street Trees
- 3m wide landscape buffer between the East-West Collector road and residue residential lots
- Landscaping of the pedestrian through way links

N.B. Landscaping/embellishments of the parks are subject to a separate Development Application that is currently under assessment with Council.

It is noted that the landscape plans have been progressed through numerous amendments in consultation with Council. The tree and plant species selection was picked with regards to orientation, tolerance to the area's climate and the site/area needs.

Focus was afforded to providing each street and through way (between road 01 and East-West Collector Road) with a ready identifiable character via select tree species.

Additionally, the landscape buffer area between the East-West Collector road and residue lots that present to this road was developed in consultation with Council to ensure a sufficient visual and privacy break between future residential properties and a main road while also ensuring future maintenance requirements once dedicated to Council.

C7 Culture and Heritage

No items of heritage or indigenous archaeological significance have been identified on the site. The adjoining land (i.e. Lot 101 DP 1140594) is mapped as containing a heritage item, being "Werrington Park House", garden and popular avenue (Item No.315), also referred to as 'Frogmore House. Frogmore House sits atop a hill at approximately 180m west of the site's western boundary. The subdivision layout and proposed lot and road finished levels will afford detached dwelling houses on the lower slopes leading up to Frogmore House. The proposal and future built form are not anticipated to unreasonably impact on views towards Frogmore House. Therefore, the proposal is considered satisfactory in respect to this chapter of the DCP.

C10 Transport, Access and Parking

The proposal demonstrates good connections through the site and good pedestrian/bicycle access to the train station to the north. The applicant has additionally proposed an off-road cycle/pedestrian shareway on the east side of the north-south link road (proposed road 07) - that was not required by the structure plan, so as to afford a suitable connection to/from the railway station to the employment area and the greater precinct.

There is also adequate on street parking and the road widths are sufficient. The proposal has been supported by traffic reports which were reviewed by Council's Senior Traffic Engineer who was generally supportive of the proposal subject to conditions of consent.

C11 Subdivision

It has been satisfactorily demonstrated that the proposal has had regard to this chapter of the DCP and factored in key considerations such as existing constraints and surrounding land

uses. The proposal ensure nominated vegetation within the central park and the E2 Environmental Conservation zoned lot are retained and protected.

The existing site topography and drainage requirements have dictated the final bulk earthworks and these have been deemed to be satisfactory by Council.

The subdivision layout has given consideration to the availability of existing essential services, with confirmation provided by the applicant that the site is capable of adequately being serviced.

The proposed subdivision layout ensures that conventional residential allotments are predominantly provided throughout the site, with a range of lot widths and sizes provided and no lots exceeding the desired 4:1 ratio. No battle-axe allotments are proposed as part of the subdivision layout.

E12 Penrith Health and Education Precinct

The subject site is part of the Penrith Health and Education Precinct and more specifically the South Werrington Urban Village (SWUV), which is subject to its own site specific chapter within the DCP.

SWUV comprises approximately 48 hectares (please see appendix 1) of land that has been identified for urban development comprising residential and employment generating uses. This application will assist the delivery of housing and employment opportunities in Penrith and integrate with the existing Werrington community north and south of the Great Western Railway.

SWUV incorporates the area subject to this development, majority of Wollemi College, Thorndale Foundation and other privately owned land. It is worthwhile noting that the Western Sydney University campus to the west and Cobham Youth Justice Centre do not form part of the identified area of SWUV.

The proposal has satisfactorily demonstrated that it broadly delivers on meeting the objectives of this chapter of the DCP. It has provided suitable interfaces with existing surrounding uses/land, it will eventually deliver a range of housing typologies to meet demand, employment land has been increased throughout the development demonstrating commitment to retaining/growing jobs with the Penrith LGA and it will retain/improve CPW within the Environmental Conservation zone and the central park.

Additionally, the proposal largely meets the aims and objectives of the SWUV DCP chapter as it has satisfactorily demonstrated that;

- There are efficient vehicular, pedestrian and cycle links between the residential areas and employment areas.
- An interconnected grid street system is proposed.
- The east west collector road is proposed within this application.
- Biodiversity areas are conserved within the open space system and environmental zones.
- The storm water management system is consistent with water sensitive urban design principles.
- Open spaces are proposed within this application.
- The street layout affords good passive surveillance of the area generally.
- Light industrial lots are proposed as part of this application and will afford employment opportunities into the future.

However, it is noted that there are some matters that require further attention, or matters that represent departures from the DCP;

12.8.2. Structure Plan

The South Werrington Urban Village Structure Plan (see appendix 2) establishes the structure and form for the planning and future development of the subject lands. The emerging urban structure of SWUV is illustrated by the structure plan and characterised by performance measures. The proposal is generally in line with the structure plan and the performance measures with minor deviations proposed to the access arrangements, specially in relation to the proposed round-a-bout location at the intersection of the new East/West Collector Road and Werrington Road.

East-West Collector Road

The structure plan envisaged the construction of the proposed Werrington Arterial and a new major collector road is proposed to link the Werrington Arterial to future employment development to the west. The DCP states that; A new major collector road is proposed to link the Werrington Arterial to future employment development to the west. This new link road also provides a separation between the employment and residential land uses. The location of the new link road is as shown on the Structure Plan, and is located on the residential zoned land.

The proposal does represent a minor departure to location of the east-west collector road and the intersection of the proposed east-west collector road/Werrington road, however on balance this is deemed to be a supportable outcome due to the following rationale;

While stage 1 of the Werrington Arterial road has been completed, it does not have a significant bearing or connection into the SWUV area. TfNSW have confirmed to Council in correspondence dated 24 January 2020, that; *"The Werrington Arterial Stage 2 proposal has not yet advanced to the stage where the corridor has been defined and accordingly it is not possible at this date to identify if any part of the subject property would be required to accommodate this proposal"*. The proposed round-a-bout location does not fetter the provision of an intersection or connection with the proposed Stage 2 at a later date in accordance with the structure plan if that is determined as the correct location as part of the detailed design investigations into the future road corridor. Enforcing strict compliance with the round-a-bout location identified in the DCP structure plan doesn't appear practical or reasonable at this stage.

Additionally, the road was previously located further to the south and resulted in residential allotments on industrial zoned land and the applicant was seeking consent for this aspect pursuant to Clause 5.3 Development near zone boundaries of Penrith Local Environmental Plan 2010. This was not an outcome supported by Council and the revised plans represent ongoing negotiations with the applicant and subsequent amendments of the location of the east-west collector road. The applicant addressed Council concerns and as a consequence reduced the total residential lot yield by 33 lots while gaining an overall increase of industrial land.

While the east-west collector road is not wholly located within the residential zone land it will be delivered and provides separation between the industrial and residential zones. Additionally, the delivery of this road will enable the development of additional residential and employment land in the greater precinct to cope with the surging demand. Therefore, on balance Council are supportive of the minor deviation to the structure plan and performance measure in this instance.

North South Link Road

The structure plan envisioned that a minor north south road linking Werrington Station with the Great Western Highway and forming an edge between the employment precinct and the land that forms part of Wollemi school. The proposal indicates a minor departure to this layout and instead the north south road will be two separate roads with proposed road 12 located slightly

west of the intended structure plan.

This minor deviation is not considered detrimental to the overall function and structure of the precinct. The road will still act as an edge between majority of the industrial land and Wollemi school (due to the proposed land swap), with the exception of one proposed industrial lot. It is not envisioned that this one industrial lot would pose adverse impact to the school and the use/built form will be subject to a separate approval.

The adjoining land to the south is under separate ownership and will be subject to a separate approval if/when they choose to develop. At this time the continuation of this road layout can be re-visited if/when an application is received.

12.8.2.4 Dwelling Yields

The DCP indicates that a minimum of 414 dwellings are to be delivered in the precinct. Where development seeking densities above 414 the application shall demonstrate that the site can accommodate the increased population in respect to traffic, open space allocation and environmental constraints.

The applicant is proposing 227 residential lots with 14 residential residue lots in this application. However, they estimate that the total capacity within the land subject of this application to be 360 dwellings. While the minimum dwelling yield is not proposed to be met under this application, it is acknowledged that future development of residue lots will likely exceed the total yield over 414 dwellings in the precinct. The performance of the surrounding road network and contributions towards open space will be considered at that time.

12.8.3.4 Passive Open Space and Environmental Conservation Areas

The controls state that the design of the parks is to be in accordance with the concept landscape plans as shown in the DCP. While the embellishment of the parks is captured under a separate application (currently lodged with Council and under assessment), it is noted that the design of storm water basins that are proposed in this application will inhibit the embellishment of the parks strictly in accordance with the DCP.

This is partly due to discrepancies between the DCP and the applicable contribution plan (Werrington Enterprise Living and Learning (WELL) Precinct Development Contributions Plan (2008) in terms of the function and size of the basin required to facilitate the precinct. The DCP indicates that the stormwater basin is to be wholly contained within the eastern park and that the eastern park should also provide for a range of play facilities (including basket ball rings, climbing wall, rope structure, slopes and seating), picnic areas and formalized landscape areas. Due to the size of the basin required to service the precinct, the provision of play facilities and the like cannot be provided for within the eastern park as envisaged by the DCP.

Instead the proposal seeks to include these facilities as part of the Central Park, which is considered to be a more appropriate location and more central to the precinct. The eastern park will therefore have primarily a drainage function with more passive seating areas and picnic spaces. The topography and drainage requirements of the site also necessitate a split basin proposal. A small basin will also be provided within the central park along the northern portion of the park.

Given the need to balance drainage with recreation and preservation of vegetation on the site (due to the requirements of the DCP and the applicable contributions plan) the proposed

arrangement is supported.

12.8.4.1 Subdivision

The controls state;

- Single dwelling lots are to be a minimum of 25m deep.
- Lots with an east-west axis shall have a minimum width of 12m, unless they are intended for use by attached dwellings.

The proposal represents variations to these controls including;

- Lot 3002, which is intended for a single dwelling has a lot depth of 24m.
- A significant portion of the residential residue lots have a lot depth of 17m.
- 60 residential lots with an east-west axis have a minimum width of 10m, and are intended for use by built to boundary dwellings.

Lot 3002, is an irregular shaped lot with presentation to three street frontages, causing the minor departure to the lot depth control. Despite the fact that it does not meet the minimum lot depth it has opportunities to allow for an innovative built design and it is anticipated it will still be able to provide for a residential built form outcome in line with the objectives of the DCP.

While Torrens title subdivision of the proposed residential residue lots is not intended as part of this application, the applicant has advised that they will be pursuing applications for further lots on these residue parcels for single dwellings. Indeed, an application - DA20/0200- is currently with Council and under assessment for; Construction of 26 Detached Dwelling Houses and Subdivision to Create 26 Torrens Title Residential Lots on Proposed Residue Lots 1254, 1255, 2037, 2038 and 2260. This application as lodged proposes a different built form outcome in that the dwellings will offer an alternative to traditional housing typologies that is more contemporary. Similar contemporary housing designs have been approved in other locations with the Penrith LGA and provides good urban design outcomes while offering a different housing typology to the market. The proposed lots face north-south and are to be wider (approximately 16.5m to 17m) to accommodate a private open space in the front yard that will achieve good solar access and that aligns with the a specific performance measure for principal private open space being; *Development with a northern orientation provides secondary private open spaces area at the street frontages through the use of courtyards and balconies*. The applicant has also demonstrated that there is a suitable edge condition between these residential residue lots and the industrial zone to the south. A 3 meter landscaped buffer has been provided between the residential residue lots and the pedestrian footpath/shareway of the east west collector road. Additionally, street trees will also be planted on both verges of the east-west collector road, adding another layer to the green edge treatment between residential and industrial uses. The landscape buffer is to be planted out as part of this application with hedges and canopy trees that will ensure there is visually pleasant and layer green break between the houses, the road and the industrial uses. A landscape cross section has been provided in Appendix 3 to show the proposed outcome.

The assessment of DA20/0200 to date has established that there is merit in the proposed development/subdivision arrangement. As such it is recommended that the variation to the residue lots lot depth is supported to allow a varied dwelling design outcome across the site that will be subject to further approvals.

The proposal has provided a range of lot widths, with the minimum width proposed to be 10m. However, these lots all have an average depth of 29 to 30m, which exceed the minimum lot depth by 4-5m and will allow for greater flexibility in order to meet the controls of the DCP for

built form outcomes. It is still anticipated that these lots will be able to adequately cater for future residents while providing compliant solar access.