

SWCPP Ref. No.:	PPSSWC-422
DA No.:	DA24/0294
PROPOSED DEVELOPMENT:	Integrated Development for Bulk Earthworks and Community Title Subdivision into Eight Lots, Including Dam Dewatering, Vegetation Removal, New Internal Estate Road, Luddenham Road Widening Land Dedication, Remediation, Landscaping, Utilities, and Basins for Stormwater Treatment and Storage and Flood Storage.
PROPERTY ADDRESS:	211 - 227 Luddenham Road, ORCHARD HILLS NSW 2748 289 - 317 Luddenham Road, ORCHARD HILLS NSW 2748
PROPERTY DESCRIPTION:	Lot 2 DP 1293805, Lot 1 DP 1293805,
CLASS OF BUILDING:	N/A
ASSESSING OFFICER	Jake Bentley
APPLICANT:	D Kataieh
DATE RECEIVED:	12 April 2024
REPORT BY:	Jake Bentley, Senior Development Assessment Planner, Penrith City Council
RECOMMENDATIONS:	Approve

Assessment Report

Executive Summary

The proposal constitutes the first Development Application for physical works within the newly rezoned industrial estate known as Alspeck Industrial Business Park (which is part of the wider Luddenham Road Industrial Business Park). The proposal is for the purpose of preparing the land for future industrial use. The proposal primarily includes bulk earthworks, a new internal estate road and super lot subdivision in the form of eight Community Title lots. Proposals for site servicing and industrial buildings (both construction and use) will be the subject of separate applications.

The estate has been created from a rezoning of Penrith Local Environmental Plan 2010 transitioning the land from rural purposes to allow for industrial development. The rezoned estate includes further land to the east and south-east of the subject site. However, this land is not part of the proposal because the further lands are not in the applicants ownership. The rezoning has been accompanied by a new Chapter within Penrith Development Control Plan 2014 specific to the estate (Chapter E18 Luddenham Road Industrial Business Park), new provisions and maps within Penrith Local Environmental Plan 2010 (relating to minimum number of lots to be provided) and an executed Voluntary Planning Agreement (VPA) relating to provision of new external road network upgrades and dedication for road widening of Luddenham Road. The application has been accompanied by an indicative Masterplan which includes road and lot layouts. The indicative masterplan is for information only to justify the suitability of the proposed works and super lot subdivision.

The application is accompanied by Water Cycle Management Reporting including catchment wide stormwater management infrastructure that will be connected to future industrial development ensuring stormwater quantity and quality can be suitably managed across the area of proposed works. The proposal has demonstrated that flood mitigation works (via flood storage basins) will ensure the extent of earthworks will not create adverse on and off-site flooding impacts. It is noted that the flood mitigation works and stormwater management works have been

reported collaboratively to ensure the proper management of stormwater during storm/flood events.

The subject site is not serviced by reticulated sewage. The Applicant has proposed a private sewage treatment plant system as part of a separate Development Application (DA24/0654) to service the entire estate. To better facilitate the possible sewerage management arrangement (nothing that DA24/0654 is still being considered by Council), the current DA has been amended to replace the proposed Torrens title subdivision with a Community Title Subdivision.

Although this will create residue land parcels that are not yet serviced by sewage, the plan of subdivision makes provision for a future sewage treatment plant to be wholly located on Part Lot 1 (the other part of Lot 1 will contain a private stormwater basin). The purpose of Community Title Subdivision is to ensure the ongoing management and maintenance of a future Onsite Sewerage Management System (OSSM). The Community Association will be responsible for preparing a Community Management Statement and a Community Management Agreement which will set out how a future OSSM will be managed, and will have the sole responsibility for coordinating the financial and technical operation of any OSSM, on behalf of all the land owners/tenants within the Community Title scheme. Community Title Subdivision prevents fragmentation (due to changes in land ownership) of the sewage management system from the sites it services within the industrial estate and the corresponding dispersal areas.

Given that the actual sewerage management system is not part of this current Development Application, it is only necessary to ensure that the proposed Community Title lots that are proposed as part of this application, have the relevant easements, restrictions and covenants to address a future sewerage management arrangement. Therefore, it is recommended that conditions are imposed on this DA requiring the relevant Community Title Association Scheme (management plan), and the relevant easements/covenants, are applied to the proposed lots prior to any Subdivision Certificate being issued for the created lots. Council will also be able to apply some flexibility at the time of the Subdivision Certificate Application should the easements and restrictions require refinement following the determination of the application relating to the sewerage management system.

In addition, it is recommended that a restriction on title is applied to each lot to restrict 'wastewater generating development' from occurring until an agreed sewage management arrangement is approved, constructed, and operational. This will address the concern of creating lots in this current DA prior to the separate DA for the OSSM being determined. The only exception to the requirement for these easements and restrictions is to Lot 8, which is the proposed future internal estate road lot that will be dedicated to Council as a public road at the agreed time.

The proposal also includes the construction of private sewage pipework which will likely be connected to a future sewage treatment plant. The proposal has been referred to Sydney Water who have raised no objections to private sewage treatment however, have suggested that the pipework be sized and configured to allow for future Sydney Water connections should this be pursued. The pipe specifications can be conditioned.

The proposal includes construction of an internal estate (Collector) road. It is noted that the Planning Agreement obligations require Patons Lane and Luddenham Road upgrades and new intersection works, which are to be completed prior to an Occupation Certificate being issued for any future building development. In this regard, the Planning Agreement includes obligations relating to road network infrastructure to accommodate operational traffic. The applicant has informed Council staff that development applications for Patons Lane and Luddenham Road upgrade and intersection works are forthcoming. Considering the proposal does not seek to generate any operational traffic and that VPA obligations are in place to require these works be completed prior to Occupation Certificates being issued, the estate has adequate provisions in place to ensure operational traffic can be accommodated. The proposal has been accompanied with draft civil plans to identify the likely interface between Lot 7 Pad levels and future road infrastructure. A condition is also recommended to state that the approved site and pad levels are not final and may change as a result of subsequent approvals.

The flood storage basins, stormwater irrigation areas and hydromulching is located within land earmarked for the

future Outer Sydney Orbital (OSO) being a piece of road infrastructure investigated by Transport for New South Wales (TfNSW). This provision of the OSO is not mapped within any legislation however, is identified as certified major transport corridor under the Cumberland Plain Conservation Plan. In this regard, there are no legislative requirements for concurrence or notice to be provided to TfNSW. However, considering the works within the OSO are critical for the development and associated future use of the land, Council staff met with TfNSW to discuss the proposed works and implications for the OSO. Following the meeting TfNSW issued written correspondence dated 21 August 2024 stating the developer has consulted with them regarding their proposal and that TfNSW have no objections to the proposal following review of the information submitted. TfNSW has acknowledged that any environmental considerations will be addressed by the future OSO project teams in the preparation of the Environmental Impact Assessment (EIS) and associated studies. In this regard, the above concerns are considered resolved. Furthermore, conditions of consent will ensure the ongoing use and management of the flood storage basins.

Noting the proximity of the North South Rail Line immediately adjacent the site to the west, the proposal was required to be given written notice to the rail authority (Sydney Metro). Sydney Metro had raised concerns with the amount of construction traffic using Patons Lane considering Patons Lane is the only access to Sydney Metro's Stabling and Maintenance Facility being a critical state infrastructure project. The applicant has submitted multiple Traffic Impact Assessments and has now proposed to use a southern driveway with access to Luddenham Road during peak Sydney Metro traffic times on Patons Lane. In this regard, Patons Lane would be relieved of construction vehicle traffic associated with the proposal and future development of the estate (cumulative construction traffic impacts). In response, Sydney Metro have now raised no objections to the proposal subject to conditions.

The proposal is accompanied by Vegetation Management Plans (VMP) for the avoided lands under the Cumberland Plain Conservation Plan which includes the area surrounding the riparian corridor to the north-west. The VMPs include weed management, revegetation, fencing and other appropriate measures to ensure ecological values are protected and enhanced.

The proposal has been accompanied by a Cumulative Noise Impact Assessment (NIA) which has established noise criteria based upon development assumptions. The NIA can be used to inform future design measures and ensure cumulative noise impacts do not exceed allowable criteria.

Currently, Council are assessing three separate Development Applications within the estate being DA24/0330 - for a warehouse (COPE) on Lot 4 with further subdivision of Lot 4, DA24/0654 - for the private sewage treatment plant on Part Lot 1, and DA24/0677 - for a speculative warehouse on Lot 2. In addition, the Department of Planning, Housing and Infrastructure (DPHI) are assessing a State Significant Development Application for the Alspeck Manufacturing Warehouse on Lot 7 (SSD-69845208) and a SEARS request for a high-bay warehouse on the remainder of Lot 4. The current Development Application, DA24/0294, before the Panel for consideration will be the first application to be determined for the site, and will underpin the bulk earthworks and main road layout for the industrial estate.

The proposal has received endorsement from Endeavour Energy noting the proximity of works to the Orchard Hills North Switching Station, TransGrid noting works nearby and within the transmission easement, Transport for New South Wales noting traffic generation and Western Sydney Airport Authority in relation to wildlife safeguarding for the Western Sydney Airport.

The proposal has also received General Terms of Approval from the following integrated development approval bodies; NSW Rural Fire Service, Department of Primary Industries (Fisheries), NSW Department of Planning and Environment - Heritage and Department of Planning and Environment - Water (now Department of Climate Change, Energy, the Environment and Water).

The proposal has received no objections subject to conditions from the following Council referral teams;

Development Engineering, Environmental Management, Waterways, Waste Services and Traffic Engineering. It is noted that Council's Biodiversity Team have also provided conditions as discussed within this report.

The Development Application has been notified to surrounding property owners and exhibited in accordance with the provisions of the Environmental Planning and Assessment Regulation 2021 and Council's Community Participation Plan 2022. The Development Application was exhibited between 27 May 2024 and 25 June 2024 and advertised within the Western Weekender newspaper with an issue date of 23 May 2024. No submissions have been received.

The applicant has agreed to the recommended conditions, via email dated 17 April 2025.

The proposal is identified as Regionally Significant Development as the estimated development cost exceeds \$30 million, as specified within State Environmental Planning Policy (Planning Systems) 2021. The consent authority is the Sydney Western City Planning Panel.

The Development Application is recommended for approval subject to conditions.

Site & Surrounds

The site is identified in the below Figure (outlined in blue).

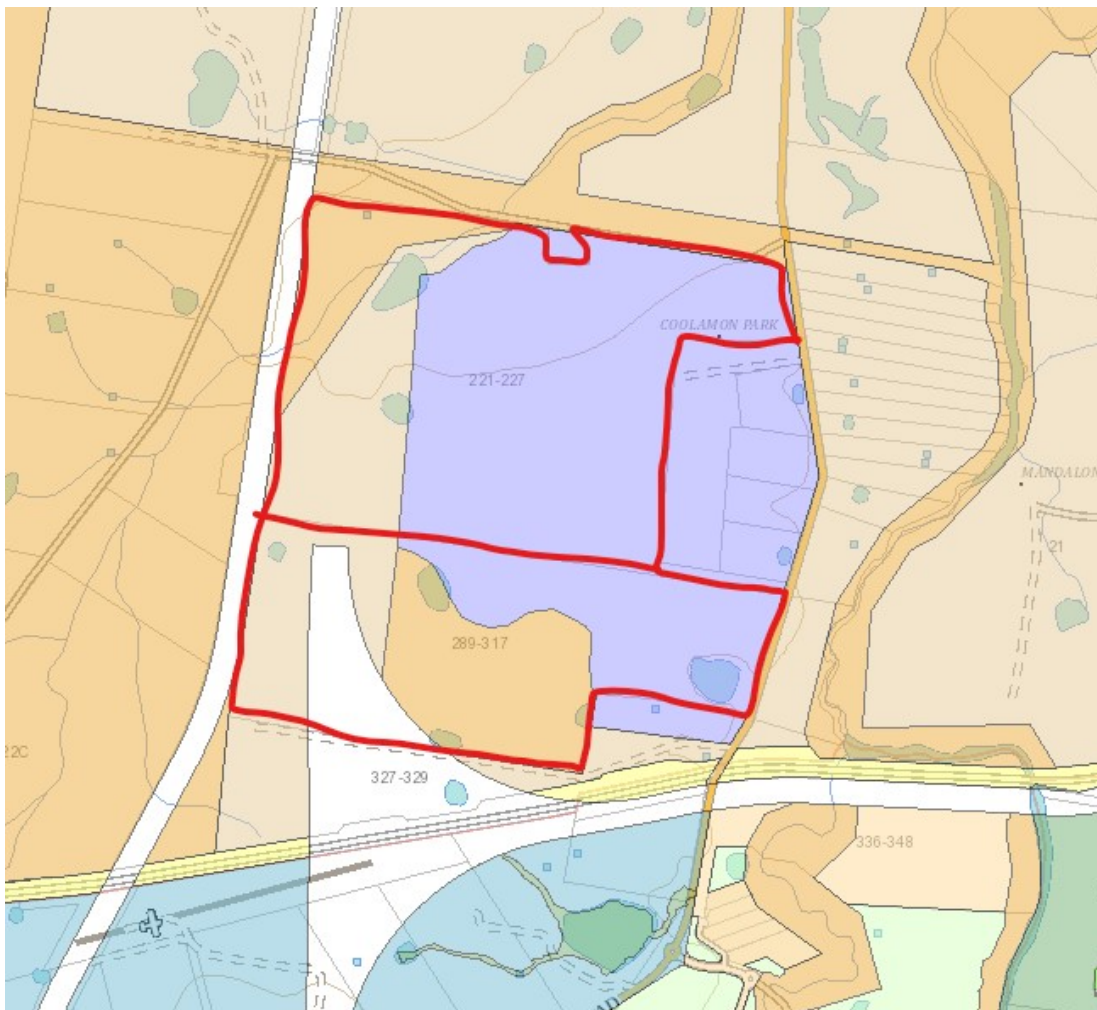


(Figure of the Site shown NearMaps)

The site is subject of a finalised Planning Proposal dated 20 May 2024 to amend Penrith Local Environmental

Plan 2010 (PLEP), generally rezoning the land from rural to industrial purposes. The site is referred to as the Alspeck Industrial Estate and is part of the wider Luddenham Road Industrial Business Park, which was the subject of the LEP rezoning.

The LEP Planning Proposal was accompanied by an Offer to enter into a Voluntary Planning Agreement (VPA). The Planning Agreement between the landowner and Council has now been entered into. The agreement requires road upgrades and new intersections for Patrons Lane and Luddenham Road. Council has also endorsed site specific objectives and controls within the Penrith Development Control Plan 2014 (DCP), being Chapter E18 Luddenham Road Industrial Business Park.



(Figure of Land Zoning Map Overlay from Penrith Local Environmental Plan 2010, with subject site outlined in red)

The purple colour identifies E4 General Industrial zone, the light orange colour identifies C2 Environmental Conservation and the darker orange colour identifies the retained RU2 Rural Landscape zoning. The white parcels of land within the site and abutting the western boundary are zoned SP2 Infrastructure within State Environmental Planning Policy (Transport and Infrastructure) 2021 for the purposes of the Western Sydney Freight Line (within site) and North South Rail Line (west of site) linking St Marys Train Station to the new Western Sydney Airport.

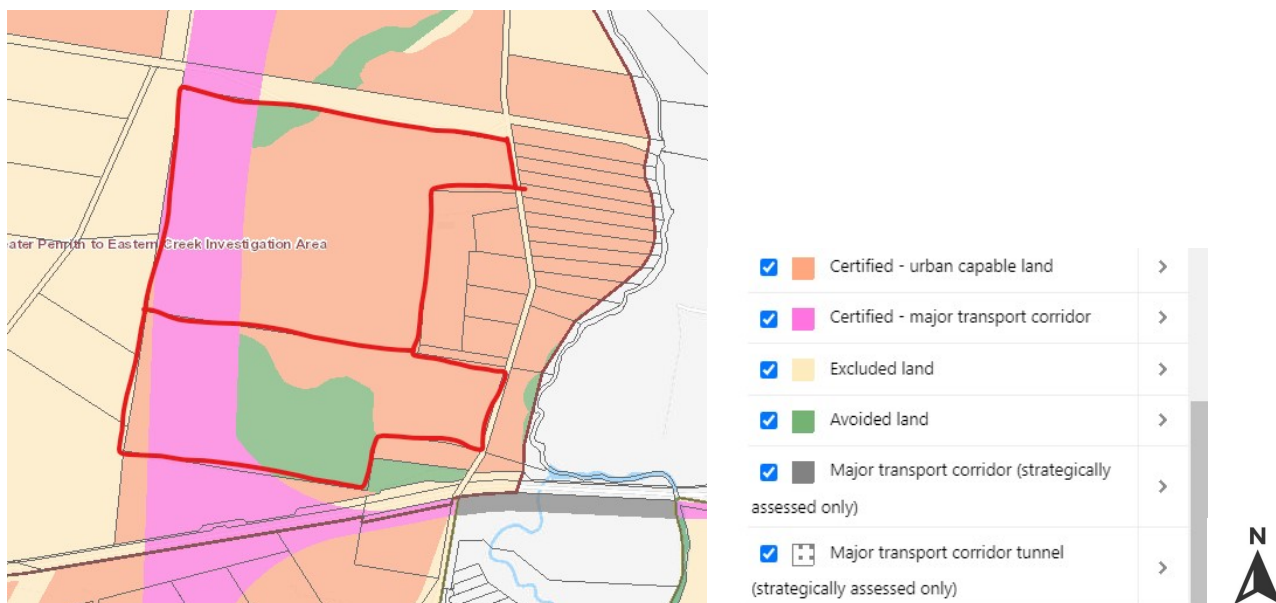


(Image of Conceptual Masterplan)

The land subject of the rezoning also applies to land east and south/east of the subject site however, this land has not formed part of the proposed works noting that these land parcels are not within the ownership of the applicant. The land zoning is shown in the above figure with the site outlined in red. In addition, a Masterplan of the site is also provided which informed the Planning Proposal and future development within the estate. The Masterplan is conceptual and indicative only.

The site is identified as bushfire prone land, is impacted by flood related development controls, accommodates an unnamed watercourse within the north-western corner of the site, is burdened by a transmission line easement within the north-western corner of the site, and is identified as having scenic and landscape values within the eastern portion of the land. The site has a natural south to north slope in a westerly direction toward the unnamed watercourse. The site is also identified under the Cumberland Plain Conservation Plan as being certified urban capable land inline with the industrial rezoned land, avoided land and strategic conservation area consistent with the environmental conservation rezoning and certified major transport corridor along the western portion of the site outside the industrial land.

It is noted that the certified major transport corridor is inline with the earmarked Outer Sydney Orbital which is not currently mapped under legislation but has been earmarked as a future transport corridor by Transport for New South Wales. In this regard and considering the Orbital sits within the site, the land in the location of the Orbital has not been rezoned ensuing the rezoning has considered this future piece of infrastructure. Furthermore, the Penrith DCP includes development controls requiring built form setbacks from this land. The Cumberland Plain Conservation Plan layers are shown below.



(Figure of Cumberland Plain Conservation Plan Overlay on site)

The site is not benefitted by connection to reticulated sewage collection. Potable water servicing can be made available subject to required infrastructure upgrades from Sydney Water. The northern parcel of land is burdened by an easement for water pipes across the entire lot and an easement for batters surrounding the adjoining northern site which houses the Orchard Hills Switching Station operated by Endeavour Energy.

The site is cleared of all structures with few remaining trees scattered across and some dams. The site is bordered by Luddenham Road to the east and Patons Lane to the North. The Luddenham Road alignment is nominated as a heritage item under Penrith Local Environmental Plan 2010 and provides connections between Elizabeth Drive and Mamre Road. This road is identified as a Primary Arterial Road with a future width of 60m. The proposal accommodates the widening of Luddenham Road.

Patons Lane currently provides access to Bingo Resource Recovery and the Sydney Metro Stabling and Maintenance Facility located further north and west of the site. Access to the subject site is currently provided from both Luddenham Road and Patons Lane. Chapter E18 of Penrith DCP 2014 includes provisions for a new developed site access with Luddenham Road to be widened in accordance with the 60m width, primary site access via the intersection between Luddenham Road and Patons Lane, estate access via Patons Lane, and a new estate collector road with secondary site access via the new estate collector road and Luddenham Road.

The executed Voluntary Planning Agreement includes provision for road works to occur at designated times (discussed later within this report).

The land to the north of the site across from Patons Lane is rural. The land to the east of the site is industrial rezoned land however, considering this land remains being used for rural residential purposes and also includes the Bosna Croatia Soccer Club. The land further east is occupied by rural residential land uses which are not subject of the rezoning.

The land south of the site includes a parcel of land subject of the rezoning to industrial land however, remains in rural residential purposes for now. The adjoining southern land includes land not subject of the rezoning with the Warragamba Pipelines and Western Sydney Aerotropolis further south. The south-eastern nearby land occupies the residential estate of Twin Creeks and the western adjoining land is under construction for the purposes of the Western Sydney Rail Line.

Council is in receipt of Development Applications for warehouse operations within the estate which rely upon works proposed within this application (DA24/0330 and DA24/0677). Council is also in receipt of DA24/0654

which proposes a private sewage treatment plant to service industrial development within the estate. The applicant has also lodged a State Significant Development Application (SSD-69845208) with the Department of Planning Housing and Infrastructure for an industrial development within the estate along the north-eastern corner. The SSD also relies upon preceding works which are the subject of this current DA before the Panel.

The applicant has informed that Development Applications for required internal and external road and intersection upgrades are forthcoming. The application has been accompanied by indicative plans identifying future road connections to the additional southern and eastern lands (rezoned but not within developer ownership). Furthermore, a plan has been provided showing indicative levels of the eastern additional land which is earmarked to accommodate smaller industrial developments in accordance with the Planning Proposal and as shown within Penrith Local Environmental Plan 2010 minimum lot number provisions.

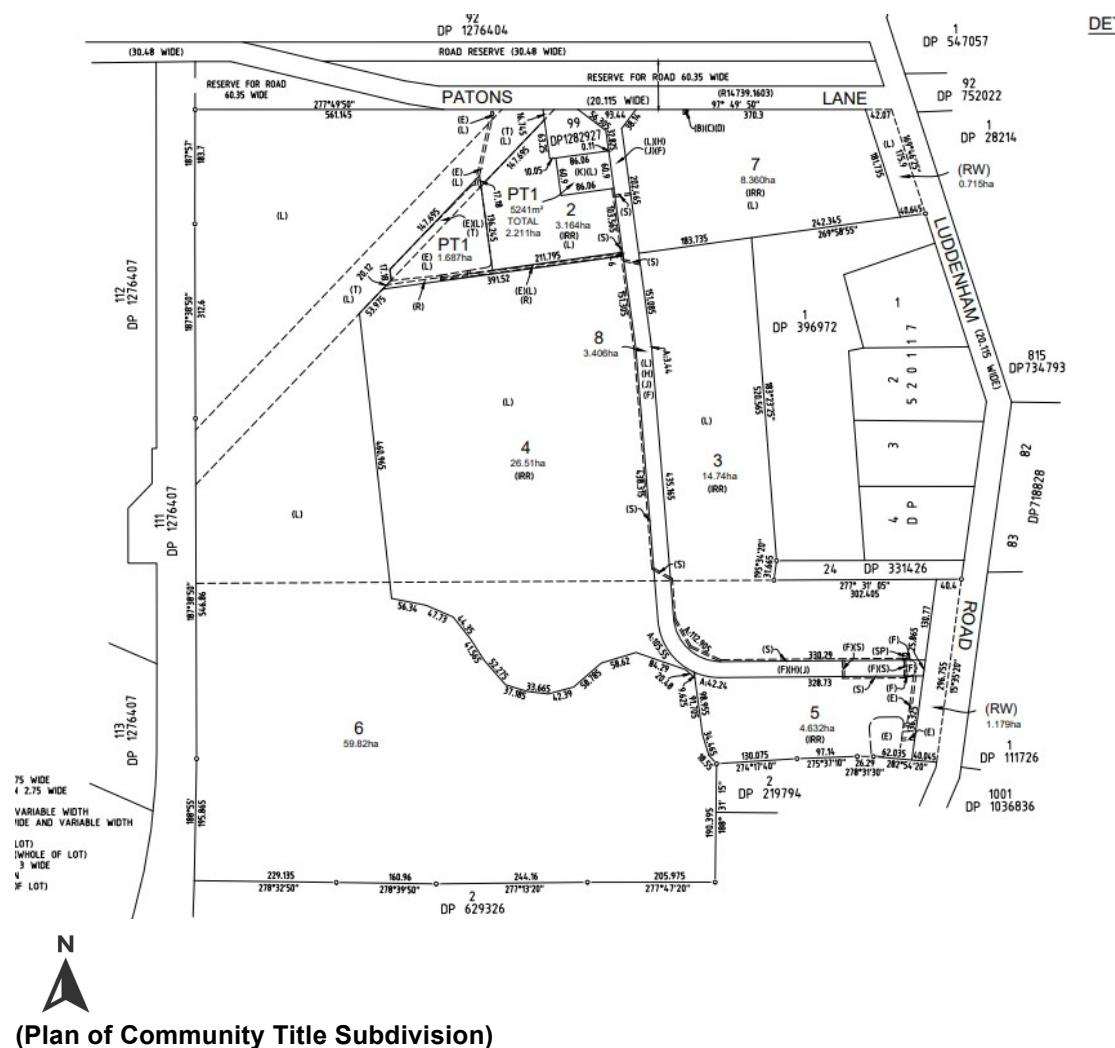
Proposal

The proposal constitutes the facilitating bulk earthworks and site preparation works for the Alspec Industrial Business Park to allow for future industrial development in accordance with the rezoned land. The proposal includes the following components:

- Eight Lot Community Title subdivision to create residue lots and account for the proposed internal Collector Road,
- easements for pad mounted substation, right of carriageway, drainage and public access,
- 40m road widening for the length of the Luddenham Road frontage adjoining the subject site,
- combination of cut and fill works totaling 56,8015m³ of cut and 913,700m³ of fill,
- establishment of three flood storage basins within the north-western corner of the site,
- identification of three drainage catchments being north-western, south-eastern and north-eastern. The north-western catchment (being the largest) contains a bio-retention (4800m² area) and storage basin (13,400m³ volume), the north-eastern catchment includes a bio-retention basin (180m² area) and on-site detention/storage basin (900m³ volume) and the south-eastern catchment includes a storage basin with a 2000m³ volume. Both the north-eastern and south-eastern drainage infrastructure will discharge to Luddenham Road and the north-western will discharge to the unnamed watercourse,
- an access driveway between Pads 2 and 4 allowing access to the bio-retention and storage basin as well as the TransGrid easement,
- all Pads are provided with batters to adjoining Pads, lots and roads/driveways. Batter works include swales preventing accumulation of flows,
- establishment of Vegetation Management Plans for avoided land nearby the riparian corridor and strategic conservation area within the southern portion of the site,
- removal of trees and filling of dams within the industrial zoned portion of the site,
- construction traffic management includes use of southern driveway during Patons Lane peak periods to avoid construction vehicle congestion,
- construction of numerous sediment basins within Pads,
- construction of tiered sandstone log retaining wall at Collector Road curve to retain higher strategic conservation area,
- cul-de-sac termination of Collector Road until future left in and left out intersection with Luddenham Road provided,
- the proposal seeks to irrigate the storage ponds and future rainwater collection within landscaped setbacks, road verge, TransGrid easement and flood storage basin. Irrigation for these purposes is balanced with irrigation for effluent noting the on-site sewage management facility proposal is subject of a separate Development Application (DA24/0654), which is yet to be determined,
- provision of reticulated electricity, telecommunications, sewage and associated pump station, potable water and recycled water. It is noted that electricity, telecommunications and potable water reticulations are located within the Collector Road whereas the sewage pipes and recycled water reticulations are located outside of the road reserve noting the private operation of the sewage treatment plant and associated

recycled water network,

- street tree landscaping embellishment, bio-retention system and storage basin plantings, hydromulching of areas within the TransGrid easement and flood storage basin subject of stormwater irrigation, and
- remediation works within the (future) Outer Sydney Orbital corridor.





(Cut and Fill Plan)

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Planning Systems) 2021
- State Environmental Planning Policy (Precincts—Western Parkland City) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Resources and Energy) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021

Planning Assessment

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

Part 7 of the Biodiversity Conservation Act 2016 (BC Act) requires development applications which are 'likely to significantly affect threatened species' to be accompanied by a biodiversity development assessment report.

Clause 7.6 *Part does not apply to biodiversity certified land* specifies that Part 7 of the BC Act does not apply to development or activities on biodiversity certified land under Part 8.

The subject site is identified as certified urban capable land, avoided land and certified major transport corridor within the Cumberland Plain Conservation Plan. The Cumberland Plain Conservation Plan is subject of an Order conferring strategic biodiversity certification under Section 8.2 of the BC Act 2016. The Order

specifies that biodiversity certification applies to land on Specified Land. The Specified Land is identified as areas mapped certified urban capable and certified - major transport corridor. In this regard, the BC Act 2016 applies to land on the site identified as avoided land.

None of the land within the subject site is identified as having biodiversity values in accordance with the Biodiversity Values Map and Threshold Tool.

The proposal includes flood storage basin works and a small encroachment from scour protection associated with the drainage connection within the north-western extent of the property identified as avoided land. The extent of works is limited to cleared areas on-site and as such, no adverse impacts to biodiversity is envisioned. A Vegetation Management Plan has accompanied the application which relates to the area of proposed works and adjoining riparian vegetation. In this regard, the BC Act 2016 is not considered to be triggered noting the minor extent of biodiversity impacts within the avoided land in the north-western corner of the site.

Another parcel of avoided land is located within the southern section of the site. The application has been accompanied by a plan showing no works encroach into the avoided land boundary and the application has been accompanied by a Vegetation Management Plan for this area. In this regard, there are no adverse biodiversity impacts envisioned for the southern avoided land area on-site.

In light of the above, majority of proposed works are located within certified land in which the BC Act 2016 does not apply. The identified avoided land is either not subject to works (southern avoided land) or is subject of works within cleared areas or provide minor encroachments into vegetation (riparian avoided land). As such, there are no adverse biodiversity impacts envisioned as a result of the proposed works and the provisions of the BC Act 2016 are not triggered.

Certified land and avoided land provisions within State Environmental Planning Policy (Biodiversity and Conservation) 2021 are discussed later within this report to ensure efforts to preserve biodiversity values are actioned.

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

The Sydney District Planning Panel applicable to the site is identified as the Sydney Western City Planning Panel being constituted for particular Sydney districts including the City of Penrith as per Part 3 of Schedule 2 in the Environmental Planning and Assessment act 1979.

In accordance with Section 2.15, the Sydney Western City Planning Panel has the function of consent authority for regionally significant development. In accordance with State Environmental Planning Policy (Planning Systems) 2021, the general development proposal has an estimated development cost (EDC) exceeding \$30 million therefore the development is identified as regionally significant in accordance with Schedule 6.

- **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**

For the purposes of this Section within the Environmental Planning and Assessment Act 1979, integrated development is development which requires consent and one or more of the following approvals under the specified Act. Commentary has been provided relating to how General Terms of Approval have been obtained or have been deemed not required.

Fisheries Management Act 1994

The Fisheries Management Act 1994 requires permits for carrying out dredging or reclamation work. The NSW Government Department of Primary Industries document titled "Integrated Development Assessment Process" specifies waterways mapped as Key Fish Habitat that involve works require the relevant permit and are therefore captured by integrated development provisions.

The unnamed creek within the north-western extent of the property is identified as Key Fish Habitat on the Fisheries NSW Spatial Data Portal and the proposal includes drainage connection to the creek. In this regard, the proposal was referred to the Department of Primary Industries (Fisheries) which responded on 4 September 2024 issuing General Terms of Approval.

It is noted that the 4 September 2024 correspondence included a request for additional information relating to the Vegetation Management Plan specific to rehabilitation and restoration efforts within the riparian corridor. The applicant updated the Vegetation Management Plan accordingly and Department of Primary Industry raised no objections.

The General Terms of Approval relate to the following:

- a permit under the Fisheries Management Act or a Controlled Activity Approval under the Water Management Act 2000 is to be obtained prior to any dredging or reclamation works,
- requires connectivity between habitats including continuous fish passage,
- stockpiles located away from waterways and sediment erosion controls to be in place, and
- requirement for permits prior to dam filling and mesh requirements for dam dewatering methods.

A recommended condition of consent will ensure the General Terms of Approval are adhered to.

National Parks and Wildlife Act 1974

The application has been accompanied by an Aboriginal Cultural Heritage Assessment which has identified two discrete cultural deposits indicative of repeat or extended visitation within the north-western section and south-eastern sections of the site. However, the entire project area has various low densities of stone artefacts throughout. In this regard, it was recommended that an Aboriginal Heritage Impact Permit be pursued.

As such, the application was referred to Heritage NSW which responded on 15 August 2024 issuing General Terms of Approval.

A recommended condition of consent will ensure the General Terms of Approval are adhered to.

Rural Fires Act 1997

In accordance with Section 100B of the above Act, a Bushfire Safety Authority is required for subdivision on bushfire prone land that could lawfully be used for residential or rural residential purposes.

The site is identified as bushfire prone land on Council's Bushfire Prone Land Map and proposes subdivision which incorporates RU2 Rural Landscape zoned land. In accordance with Penrith Local Environmental Plan 2010 rural residential land uses are permitted with consent in the RU2 zone. The proposal does not include or envision any residential land uses within the RU2 zone however, the proposal includes subdivision on bushfire prone land that could lawfully be used for rural residential purposes.

In light of the above, the proposal was referred to NSW Rural Fire Service for the issuance of General Terms of Approval. The NSW Rural Fire Service issued General Terms of Approval dated 18 December 2024. The General Terms of Approval acknowledge inner protection areas do not apply to Lot 6 which accommodates the riparian corridor and avoided land. Furthermore, the inner protection standard does not apply to the bio-retention and storage basins therefore, allowing improved landscaping embellishment.

The Bushfire Assessment Report accompanying the application acknowledges that the future industrial class of buildings are required to consider access, water supply and services, and emergency and evacuation planning as part of bushfire planning considerations. It is noted that asset protection zones and Bushfire Attack Levels do not apply as deemed to satisfy provisions for the industrial type of buildings the development will accommodate.

The Bushfire Report identifies the bushfire threats based upon the conservation planning efforts noting avoided land occupies land to the north-west and south with Biodiversity Mapped Land to the north outside of the site area and within Patons Lane and grassland within the Outer Sydney Orbital land. The vegetation classification is considered consistent with future landscaping/vegetation management provisions.

The Bushfire Report specifies that general fire safety requirements within the National Construction Code are accepted as adequate bushfire protection for the developments involving Class 5 to 8 buildings. Furthermore, relying upon a defensible space in lieu of an asset protection zone is considered acceptable where construction satisfies National Construction Code structural fire provisions. The Report identifies minimum 6m wide defensible space access paths between indicative built forms and the vegetation threat. In this regard, general construction provisions and defensible space is considered satisfactory for bushfire planning measures which has been demonstrated for the proposal.

The Report provides the following series of recommendations to ensure the relevant objectives of Planning for Bushfire Protection 2019 are achieved:

- minimum 6m wide defensible space between future development and hazard interface. Bushfire Attack Levels can be considered,
- compliant landscaping within the site such as street trees,
- compliant hydrant coverage and gas supply if applicable, and
- future warehouses to consider Bushfire Emergency Management and Evacuation Plan.

Compliance with the General Terms of Approval and Bushfire Report will be conditioned.

Water Management Act 2000

The provisions of this Act requires a Controlled Activity Approval to be issued when works are conducted on waterfront land. The site accommodates a watercourse (unnamed creek) within its north-western extent which is mapped on the Hydroline Spatial Data Map. The plans accompanying the proposal includes a 40m buffer line from the watercourse to identify the extent of waterfront land. A review of the civil plans indicates that works will encroach waterfront land and as such requires a Controlled Activity Approval. The extent of works are limited to a flood storage basin, drainage connection from the north-western storage basin to the creek, access works within the TransGrid easement and irrigation of storage ponds with associated hydromulching.

The application has been accompanied by a Riparian Vegetation Management Plan dated 9 September 2024 applying to land surrounding the unnamed creek. The Vegetation Management Plan discusses encroachments and allowable offsets within the 40m buffer to the creek, weed management, revegetation, fencing and signage.

The proposal was referred to the Department of Planning and Environment - Water (now Department of Climate Change, Energy, Environment and Water) which responded on 4 November 2024 issuing General Terms of Approval.

It is noted that the Water Management Act 2000 contains additional approvals which trigger integrated development such as water supply work approval and aquifer interference approvals. Water supply work approvals relate to works such as dams for the purpose of capturing water and an aquifer interference approval relates to works which interfere with an aquifer.

Correspondence was received from Water NSW dated 29 July 2024 stating their Water Regulation Team did not have a specific response under the Water Management Act. It is noted that this was in response to a referral to Water NSW under the Water Management Act 2000.

Furthermore, the application has been accompanied by a Groundwater Impact Assessment which specifies the development does not trigger referral under the Water Management Act 2000.

- **Section 7.12 - Developer Contributions**

Council's City Wide Development Contributions Plan for Non-Residential Development applies to the land in accordance with Figure 1 *Land to which this plan applies*. The site is located within the applicable land area. The Contribution Plan requires a development contribution for non-residential development (including industrial and business park development) with a cost of work exceeding \$100,000.

The Contribution Plan specifies a levy rate of 1% of the estimated development cost, where the cost exceeds \$200,000. The proposal has been accompanied by a Registered Quantity Surveyors Estimated Development Cost Report calculating the estimated development cost.

In accordance with Section 208 of the Environmental Planning and Assessment Regulation 2021 which specifies the means by which the cost of carrying out the development is to be estimated for the purpose of Section 7.12 development contributions, the GST cost is not excluded in an estimate of determination of cost. As such, an updated estimate of development cost has been provided including GST.

The VPA between Council and the developer/landowner does not exclude the application of Section 7.12 of the Environmental Planning and Assessment Act 1979 to the development.

In accordance with the 1% contribution rate of estimated development cost, the total Section 7.12 development contribution = \$401,618.23. A recommended condition of consent will ensure the required Section 7.12 Development Contribution is paid prior to the release of a Subdivision Certificate as per the Contribution Plan.

- **Section 7.26 - Housing and productivity contributions**

The VPA between Council and the landowner does not exclude the application of Division 7.1, Subdivision 4 of the Environmental Planning and Assessment Act, 1974. Subdivision 4 of the Act relates to Housing and Productivity Contributions.

A Housing and Productivity Contribution is not required as detailed below.

The Environmental Planning and Assessment (Housing and Productivity Contributions) Order 2024 commenced on 1 July 2024. However, the Order includes a savings and transitional provision within Schedule 5 determining that the 2023 Order continues to apply to development applications that are made on or after 1 October 2023 but not determined before 1 July 2024. The subject application was lodged after 1 October 2023 and has not been determined before the 1 July 2024. As such, the provisions of the 2023 Order remain applicable.

However, Section 12 of Schedule 5 within the 2024 Order states, the 2024 Order applies where a Strategic Biodiversity Component (SBC) is required for industrial development on biodiversity certified land. This provision applies when a development application is made before 1 July 2024 and not determined before 1 July 2024. The subject development application was made prior to 1 July 2024 and has not been determined before 1 July 2024, as such, the SBC contribution in the 2024 Order is applicable.

The Housing and Productivity Contribution (HPC) and SBC of the HPC apply to new gross floor area of industrial development. The 2023 Order requires a HPC for industrial development in the Greater Sydney Region of \$15 per square meter of new gross floor area. The 2024 Order requires a SBC of the HPC of \$30 per square meter of gross floor area for industrial development.

The proposal is for the purposes of bulk earthworks and facilitating works providing provision for future industrial development. In this regard, the proposal does not include the creation or addition of gross floor area for industrial development purposes. As such, a HPC or SBC in accordance with the 2023 and 2024 Orders are not applicable for this proposal, but will apply for future development applications which create gross floor for industrial development.

The 2023 Order also requires a HPC for residential subdivision for the purposes of new dwelling lots. The proposal includes subdivision to create Lot 6 being on land zoned RU2, which is capable of being used for rural residential purposes. However, the current (existing) site includes two parcels of land within the RU2 zone. In this regard, new dwelling lots are not being created and therefore, a HPC is not required for the subdivision component on the RU2 zoned portion of the site.

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

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 6 Water catchments

Section 6.6 Water quality and quantity

The Development Application has identified three drainage catchments that apply to the proposed development which are identified as the north-west catchment (largest catchment), south-east catchment and north-east catchment. The north-western catchment flows toward the unnamed creek and the remaining two catchments drain to south creek located east beyond the site.

The north-western catchment includes a bio-retention basin with a 4800m² area and storage basin with a 13,400m³ volume being the required stormwater management infrastructure to service the catchment footprint. It is envisioned that the north-western catchment will drain to the bio-retention system and storage basin via drainage works within the collector road and a pipe within an easement along the western boundary of Pads 4a and 4b. Furthermore, the development of each pad site within the north-western catchment will be required to provide on-site detention most likely in the form of below ground tanks to ensure post development flows are adequate and do not cause adverse impacts to the receiving waterway.

The storage basin will discharge to the unnamed creek however, to ensure flows are managed the storage basin will be irrigated within the adjoining transmission easement and southern flood storage basin.

The south-eastern catchment includes a swale along the interface with the avoided land to ensure adequate drainage capture. The south-eastern catchment, similarly to the north-western catchment, will

rely on on-site detention with future development to ensure post development flows are suitably managed. The pipe network within the collector road has been adequately sized and will drain to a 2000m³ storage basin with eventual discharge to south creek via Luddenham Road.

The north-eastern catchment will service half of Pad 7 (which accommodates the development subject of a State Significant Development Application-SSD-69845208) and includes a swale along its southern boundary to ensure water does not accumulate within the lower Bosna Croatia Club site. The catchment is serviced by a 180m² bio-retention basin and a 900m³ storage and on-site detention basin with eventual discharge to South Creek via Luddenham Road.

Beyond the stormwater quality infrastructure specified above the proposal includes or instructs for future development to provide the following treatment measures:

- ocean guard pit baskets,
- stormwater filters,
- rainwater tank storage, and
- gross pollutant traps.

The precinct will treat sewage on-site and dispose treated effluent via irrigation. The proposal has integrated the stormwater irrigation and effluent irrigation to ensure calculations are accurate. Irrigation of storage basins will assist to maintain runoff volumes during storm events. The application has specified irrigation of the southern most flood storage basin will not occur during flood events ensuring overflow impacts will not occur.

The proposal has been reviewed by Council's Development Engineering and Waterways Teams who raised no objections to the proposal subject to recommended conditions of consent.

The required earthworks include a balance of cut and fill with levels generally consistent with the topography of the land with slopes from south to north and toward the creek and Luddenham Road to the south-east. The proposal includes the construction of flood storage basins to mitigate the impact of filling works within flood prone land. The bulk earthworks have been informed by the ability to drain the catchments, provide for stormwater management systems above flood levels, provide flood safe access and provide suitable interfaces to future roads and conservation areas.

The following points are made in relation to the matters of consideration specified under this clause:

- Council's Waterways Team are satisfied the proposed treatment measures are suitable to ensure neutral of beneficial water quality, or as close as possible, to receiving waterways is achieved,
- the proposal includes adequate measures to ensure no adverse impact of water flow into natural waterbodies noting the inclusion of on-site detention and storage basins as well as irrigation to free up volume during storm events,
- the proposal shows indicative areas for stormwater reuse via rainwater tank capture, and
- the application has been accompanied by a Groundwater Impact Assessment which specifies minimal ground water impacts envisioned. The inclusion of hydromulching within stormwater irrigated areas will assist evaporation and therefore minimise groundwater recharging.

In light of the above, the proposal is considered to have satisfactorily addressed the provisions of this clause.

Clause 6.7 Aquatic ecology

The provisions of this clause relate to protecting biodiversity, waterways and riparian vegetation.

As mentioned previously, the proposed works in proximity of the watercourse relate to flood storage basins within cleared land and a slight encroachment into riparian vegetation. The application has been accompanied by a Riparian Vegetation Management Plan which specifies allowable offsetting, weed management and revegetation. Overall, the impacts to biodiversity, waterways and riparian vegetation is considered minimal. Furthermore, the application has been accompanied by General Terms of Approval from both Department of Environment - Water (DPE - Water) and Department of Primary Industries (Fisheries) in relation to both a Controlled Activity Approval and Fisheries Permit.

The proposal includes sediment control measures to ensure protection of the waterway and it is noted that General Terms of Approval from DPE Water will require sediment erosion control details to ensure protection of the creek.

In light of the above, the provisions of this clause are considered to be adequately addressed.

Clause 6.8 Flooding

The proposal includes flood storage basins to ensure flood waters are captured noting filling works are proposed within the existing flood fringe and storage area. The proposal includes numerous water quality measures to ensure water discharged into waterways is suitably treated and stormwater management systems have been situated above the flood level.

The flood storage basins include flattened sections to allow for recession of water into the creek.

In light of the above, nil adverse impacts are envisioned in relation to water quality and flood recession as a result of the proposal.

Chapter 13 Strategic conservation planning

Section 13.3 Development controls - avoided land

The provisions of this section seeks to protect and enhance native vegetation on avoided land and promote the conservation of, and minimise the impact of development on, native vegetation.

As mentioned previously, the site contains two areas identified as avoided land with a patch located nearby the unnamed watercourse and the other south of the site nestled between the Outer Sydney Orbital and southern/western boundary of the area of works.

The proposal has been accompanied by Vegetation Management Plans (VMP) for both avoided land areas. Works within the riparian avoided land relate to flood storage basin works and a small encroachment of scour protection associated with the drainage connection to the creek from the north-western storage basin. The works are predominately located outside the area of native vegetation and is limited to impacts on exotic grassland. As such, the VMP recommends weed management controls within the riparian corridor subject of native vegetation to maintain the quality biodiversity present and weed management and revegetation within the exotic grassland area to improve native vegetation quantity.

In this regard, the proposal avoids native vegetation impacts within the riparian avoided land and includes measures to improve native vegetation within this area.

The southern avoided land area is not subject to any proposed works and has been avoided. It is noted that a retaining wall is proposed along the curve of the Collector Road however, the retaining wall (2.3m high) will not encroach into the avoided land area nor will any proposed batters at the avoided land interface. The

proposal has been accompanied by a VMP for this area which specifies weed management, revegetation measures with natural vegetation to be monitored prior to including planting methods and also includes fencing to ensure no access to the area. In this regard, the avoided land area has been successfully avoided to ensure native vegetation remains intact and improved.

Considering the proposal does not involve any adverse impacts on native vegetation the proposal is also not considered to have any adverse impact on habitat for native fauna. Council's Biodiversity Team have reviewed the proposal and are in support of the VMPs submitted and associated ecological impacts.

The controls include provisions restricting the subdivision of avoided land. In accordance with the subdivision layout proposed, the avoided land sections will be retained on one lot and will not be further subdivided.

Section 13.4 Development controls - strategic conservation area

The provisions of this section seek to protect and enhance native vegetation in a strategic conservation area and promote the conservation of, and minimise the impact of development on, native vegetation.

This Policy identifies strategic conservation area as land within the southern avoided land area.

The provisions within this section have been discussed above and are satisfied noting the implementation of the proposed VMP and considering no works are proposed within the strategic conservation area.

Section 13.5 Development on certified urban capable land

The provisions of this section include controls requiring asset protection zones to be located on certified urban capable land and to ensure development is consistent with the Cumberland Plain Conservation Plan Mitigation Measures and Guideline.

The certified urban capable land is identified as land zoned industrial.

The proposal does not require any asset protection zones as per the submitted Bushfire Report.

The proposal has been accompanied by a Biodiversity Management Plan (BMP) which has assessed the area of works within certified land against the Cumberland Plain Conservation Plan Mitigation Measures Guideline. The BMP identifies majority of the land that is certified is occupied by exotic grassland with few paddock trees and an area of regenerating understory nearby the strategic conservation area. The flood storage basins provide minor encroachments into the riparian vegetation however, this has been offset as part of the riparian VMP which has been endorsed by Department of Environment - Water.

The BMP has assessed the proposal against the applicable mitigation measures and is found to be consistent with those measures. A recommended condition of consent will ensure the recommendations to achieve these measures are imposed.

State Environmental Planning Policy (Planning Systems) 2021

In accordance with Part 2.4 *Regionally significant development*, development specified in Schedule 6 is declared to be regionally significant development for the purposes of the Environmental Planning and Assessment Act 1979.

Schedule 6 Section 2 specifies development that has an estimated development cost of more than \$30 million is identified as regionally significant development. The application has been accompanied by a Registered Surveyors Estimated Development Cost Report which identifies the EDC as more than \$30 million.

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

Chapter 4 Western Sydney Aerotropolis

Clause 4.19 Wildlife hazards

The provisions of this clause relate to identified relevant development located within the 13km wildlife buffer of the Western Sydney Airport. The proposal includes bio-retention and storage basins which have the ability of holding water. In this regard and noting the size of the basins and proximity to the Airport, the proposal is considered relevant development considering "water storage facilities" are identified as relevant development.

The provisions of this clause requires the consent authority to conduct the following:

- *consultant with the relevant Commonwealth body, and*
- *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*
- *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.*

The proposal has been accompanied by a Wildlife Hazard Assessment which has been referred to the Western Sydney Airport Co (WSA). The WSA replied via the NSW Planning Portal in support of the proposal.

The Wildlife Hazard Assessment includes the requirements of the provisions within this clause, noting the extensive biodiversity reporting which has occurred across the site. The assessment states *"The development is not anticipated to attract wildlife to the extent that it would increase the safety hazard to airport operations compared to the current land use"*.

The Wildlife Hazard Assessment was written on the basis that the bio-retention basin was vegetated however, water storage basins were unvegetated as the Landscape Plans submitted at the time did not show landscaping within these structures. The Landscape Plans have since been updated to include low growing species within and around the storage basins similar to what has been provided for the bio-retention basin. Initially, it was requested whether canopy plantings could be provided within and around the storage basin however, the applicants ecologist has confirmed canopy plantings could create additional nesting opportunities for a range of aerial species. In this regard, the low growing species within and around

the basin have been selected.

The applicants ecologist has provided written correspondence stating that the plantings in the updated Landscape Plans are not intended to attract a large range of aerial species, as they are selected for being low growing and having limited flowering, and are designed to minimise such attraction. As such the conclusions of the Wildlife Hazard Assessment remain the same, being that development is not anticipated to attract wildlife to the extent that it would pose an increased safety hazard to airport operations compared to the current land use.

The proposed vegetation will include species specified within the Western Sydney Aerotropolis Landscape Species List and future industrial development can incorporate measures to ensure waste is managed appropriately and wires, nets and/or spires are installed where required.

In light of the above, the proposal is considered satisfactory in relation to wildlife safeguarding.

Clause 4.22 Airspace operations

The provisions of this clause relate to development that will penetrate the prescribed airspace. The proposal will not penetrate the prescribed airspace therefore, the provisions of this clause do not apply.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 Remediation of land

The provisions of this chapter requires a consent authority, prior to granting consent, to consider whether the land is contaminated and whether the land is suitable for the intended use. If remediation works are required to make the land suitable then remediation works are required to be conducted prior to the use commencing.

The application has been accompanied by a Final Validation Report which applies to the subject site with the exclusion of the Outer Sydney Orbital area to the west. The Validation Report specifies that previous contamination investigations have been conducted which found asbestos containing material scattered across the site, intermediate bulk container containing engine oil, disused above ground diesel tanks, scattered household waste, post demolition building footprints and septic tanks. These items were either investigated and found not to contribute to contamination or have been successfully remediated as part of previous validation works.

The Final Validation Report specifies that the Outer Sydney Orbital has not been included within the Validation Report and that a small portion of land to the west of the Orchard Hills Switching Station (Endeavour Energy asset) would be subject of later contamination reporting once Endeavour Energy have ceased using this space.

Considering the original contamination investigations were conducted in 2021 which informed works to remediate the site, it has been requested the applicant demonstrate consideration of works on-site between 2021 to present. The applicant has provided this detail within the Final Validation Report specifying that works on-site during this period (2021 to present) have been adequately reported. However, it is noted that the report recommends further reporting within the Outer Sydney Orbital and area occupied by Endeavour Energy to ensure site suitability.

In light of the above, the application has been accompanied by a Detailed Site Investigation relevant to the Outer Sydney Orbital portion of the land. The investigation found asbestos within the north-western portion of the Outer Sydney Orbital land and mentions contamination within central portions of the Outer Sydney Orbital, subject of previous contamination investigation, has not extended beyond recent investigations. In this regard, remediation of the central Outer Sydney Orbital will be conducted in accordance with a Remediation Action Plan dated 2021 and the north-western portion of the Outer Sydney Orbital will be conducted in accordance with the Remediation Action Plan accompanying this proposal.

The proposal has also been accompanied by a contamination investigation for the area of land west of the Orchard Hills Switching Station. The investigation did not identify any contamination and found the potential for unidentified contamination to be low. However, considering the ongoing use of this land by Endeavour Energy it is noted that an Unexpected Finds Protocol will manage any contamination identified during site works.

The proposed contamination investigations, remediation action plans and validation reporting has been reviewed by Council's Environmental Management Team who raise no objections subject to recommended conditions of consent. Conditions of consent will ensure an Unexpected Finds Protocol is created and actioned and that remediation works will be conducted prior to commencement of works to ensure the land is suitable for the intended future industrial land uses.

State Environmental Planning Policy (Resources and Energy) 2021

Chapter 3 Extractive industries in Sydney area

Clause 3.11 Restrictions on development in the vicinity of extractive resource sites

This section applies to land in the vicinity of Lot 4, DP 521268, Patons Lane, Erskine Park (Erskine Quarries). The subject site is located approximately 150m south-east of the Bingo Industries Patons Lane Resource Recovery Centre therefore, the provisions of this clause apply. The clause provisions and response is detailed below.

A council must not grant an application for consent to carry out development of land to which this section applies unless it is satisfied that, if the development is carried out in accordance with the consent:

(a) the proposed development will not be adversely affected by noise, dust, vibration or reduced visual amenity from any nearby extractive industry, and

The proposal relates to a facilitating bulk earthworks application for the purposes of establishing a future industrial precinct. In this regard, the proposal is not considered a sensitive use and is not envisioned to be impacted by noise generation. The proposal is separated from the resource recovery centre by dense riparian plantings therefore no adverse visual impacts are envisioned and a buffer regarding dust has been provided. Noting the distance of the proposal to the existing resource recovery operation there are no adverse vibration impacts envisioned.

(b) the proposed development will not in any way adversely affect any existing nearby extractive industry or prevent any such extractive industry from realising its full economic potential by adversely affecting future expansion of the extractive industry of which the council is aware.

The proposed development has demonstrated that no adverse flooding impacts will be generated as a result of the proposed works and thereby will not impact the resource recovery operation. The site is subject of a Voluntary Planning Agreement requiring intersection upgrade works for Patons Lane connections to Luddenham Road and the Collector Road which must be finalised prior to operation of the development. In this regard, operational traffic from the development is not envisioned to impact access to the resource recovery site noting Patons Lane is the only access.

Further to the above, Sydney Metro concerns relating to construction vehicle impacts on Patons Lane access have been resolved which will also benefit the resource recovery access.

The proposal has been exhibited to the resource recovery site and no submissions were received.

In light of the above, the proposal is not envisioned to impact the operation or future expansion of the resource recovery site.

State Environmental Planning Policy (Transport and Infrastructure) 2021

Chapter 2 Infrastructure

Clause 2.48 Determination of development applications - other development

Endeavour Energy

The provisions of this clause requires the consent authority to notify the electricity supply authority for development carried out immediately adjacent an electricity substation and/or works within 5m over exposed overhead power lines. The proposal also includes works to the Collector Road for a small portion along the Endeavour Energy sites eastern frontage.

The application was referred to Endeavour Energy who responded on 10 May 2024 with a decision of 'approved'.

Development Applications DA24/0654 and DA24/0677 relating to works on the pad levels surrounding Endeavour Energy land proposes retaining walls up against the boundary and swales within Endeavour Energy land.

The proposal includes earthworks creating building pads surrounding the Endeavour Energy Orchard Hills Switching Station including associated swales to prevent flows accumulating in the lower Endeavour Energy land. These applications have been accompanied by Endeavour Energy endorsement.

TransGrid

The site is burdened by a transmission line easement within the north-western corner of the site in which electricity infrastructure is located. The proposal includes works within this area of the site relating to access road works for TransGrid, bio-retention and storage basin encroachments, crossing over connections between the flood storage basins, irrigation areas from the storage basins and hydromulching.

The proposal was referred to TransGrid who responded on 27 February 2025 issuing conditional approval. The conditional approval will be adhered to via recommended conditions of consent.

Clause 2.99 Excavation in, above, below or adjacent to rail corridors

This section applies to development that involves the penetration of ground to a depth of at least 2m below ground level on land within 25m of a rail corridor. The proposal involves excavation within 25m of the North South Rail Line which abuts the land to the west. In this regard, the provisions of this clause applies and requires written notice be provided to the rail authority with consideration of any response received. In addition, the provisions of this clause prohibit granting development consent unless the concurrence of the rail authority has been received.

Correspondence received from Sydney Metro dated 7 June 2024 states that Sydney Metro are the relevant rail authority for the Sydney Metro - Western Sydney Airport rail corridor for the purposes of this State Environmental Planning Policy.

Sydney Metro have raised concerns regarding construction vehicle generation of the project noting this will occur prior to intersection upgrades at the Collector Road with Patons Lane and Patons Lane with Luddenham Road, and the ability of Sydney Metro access noting the only entry and exit to their asset is via Patons Lane.

The applicant has submitted multiple Traffic Impact Assessment Reports and has now proposed a method to manage construction vehicles generated from the development to the satisfaction of Sydney Metro. The Traffic Impact Assessment includes provision for an existing driveway within the southern extent of the land to be used for construction vehicle traffic during Sydney Metro peak construction movements therefore alleviating Patons Lane from construction vehicles associated with the Alspec Industrial Estate. The applicant has stated that no further improvements are required to the southern driveway for the purpose describe above.

Sydney Metro have provided correspondence raising no objections to the proposal subject to recommended conditions being imposed on any consent issued. The Sydney Metro correspondence is dated 21 February 2025. In this regard, consent can be granted to the proposal. The recommended conditions will form part of the consent.

The provisions of this clause also requires the consent authority to consider any guidelines issued for the purposes of this clause. It is noted that the guideline document titled *Development Near Rail Corridors and Busy Roads - Interim Guideline* has been created for the purposes of this clause. The proposal does not involve works that will encroach within the neighbouring rail corridor land and the interface with the proposed works is limited to stormwater irrigation areas and a flood storage basin. The flood storage basin drains away from the rail corridor and investigations have been undertaken to ensure no adverse impacts to groundwater movement is envisioned regarding stormwater irrigation. As mentioned above, the proposal was referred to the relevant rail authority who have raised no objections to the proposal. Recommended conditions from Sydney Metro include the provision of fencing at the boundary interface with the rail corridor for security purposes.

In light of the above, the proposal has been considered against the relevant guideline and is considered satisfactory.

Clause 2.122 Traffic-generating development

The provisions of this clause requires development of a certain size or capacity to be referred to Transport for New South Wales (TfNSW). The proposal does not trigger the relevant size or capacity provisions however, noting the cumulative construction and operational traffic demands of the development and wider precinct the application has been referred to TfNSW for comment.

TfNSW responded on 3 June 2024 and subsequently on 14 February 2025 stating no impact is envisioned to the classified road network. However, the response acknowledges the potential conflict with access at Patons Lane to the site and Sydney Metro's Stabling and Maintenance Facility asset. In this regard, the TfNSW response includes a recommended condition to assist this conflict. The recommended condition requires a Construction Pedestrian and Traffic Management Plan to be formulated in consultation with TfNSW and Sydney Metro. Such a condition will form part of the recommended conditions of consent.

Clause 2.163 Determination of development applications

The section applies to affected land in accordance with the Water Supply Infrastructure Map. The affected land includes land within and surrounding the Warragamba Pipelines which is located south of the site. The Map includes a small sliver of land within the south-eastern corner of the site. The affected land is located within the strategic conservation area and is subject to no works as part of the proposal.

Considering development is not proposed on land to which this section applies the provision of this clause do not apply. However, the application has been referred to Water NSW who responded stating they are satisfied with the distance of the proposed works.

Chapter 4 Major infrastructure corridors

For the purposes of this Chapter, future infrastructure corridor, is land zoned SP2 Infrastructure which includes the Western Sydney Freight Line within the site and the North South Rail Line located immediately west of the site.

Clause 4.8 Subdivision of land prohibited

The provisions of this clause prohibit subdivision of land within a future infrastructure corridor. The proposal does not include subdivision of SP2 zoned land and will retain the Western Sydney Freight Line in one lot.

Clause 4.9 Excavation in, above, below or adjacent to future infrastructure corridors

Similarly, to Section 2.99 above, this section applies to development that penetrates ground 2m in depth on land within 25m of a future infrastructure corridor. Development to which this section applies is required to be referred to TfNSW and take into consideration any response received.

As per Section 2.99, Sydney Metro have informed that TfNSW has delegated its rail authority functions to Sydney Metro in relation to the North South Rail link which sits to the west of the site. Noting flood storage basins penetrate the ground to a depth of 2m within 25m of the infrastructure corridor the provisions of this clause are also triggered.

Sydney Metro have raised no objections to the proposal as previously discussed and TfNSW have been referred the proposal and raised no objections. In this regard, the application has been provided to both Sydney Metro and TfNSW authorities where it has been established Sydney Metro are the rail authority. Sydney Metro have raised no objections and TfNSW have been provided notice of the proposal to which no objections were raised.

In this regard, the required notice has been provided and required responses received.

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Permissibility	Complies - See discussion
Clause 2.3 Zone objectives	Complies
Clause 2.6 Subdivision - consent requirements	Complies
Clause 4.1 - Minimum subdivision lot size	Complies - See discussion
Clause 4.1AA Minimum subdivision lot size for community title schemes	Complies - See discussion
Clause 4.3 Height of buildings	N/A
Clause 5.10 Heritage conservation	Complies - See discussion
Clause 5.21 Flood planning	Complies - See discussion
Clause 7.1 Earthworks	Complies - See discussion
Clause 7.5 Protection of scenic character and landscape values	Complies - See discussion
Clause 7.6 Salinity	Complies - See discussion
Clause 7.7 Servicing	Complies - See discussion
Clause 7.24 Minimum number of lots at 221–325 Luddenham Road, Orchard Hills	Does not comply - See discussion
Clause 7.30 Urban Heat	Complies - See discussion
Clause 7.32 Development of land in the transport investigation area	Complies - See discussion

Clause 2.3 Permissibility

Under the provisions of the PLEP the site has a split zoning consisting of E4 General Industrial, C2 Environmental Conservation and RU2 Rural Landscape.

The E4 zoned portion of the site is concentrated within the central and eastern portion. The C2 zoned portion of the land is located within the southern and north-western extent of the land consistent with the unnamed creek and avoided land under the Cumberland Plain Conservation Plain. The RU2 zoned portion of the site sits within the Outer Sydney Orbital corridor to the west of the site and transects north-easterly within land proposed for the purposes of flood storage basins.

The proposal relates to earthworks and facilitating works for the purposes of an industrial estate. In accordance with *Clause 7.1 Earthworks* the proposed earthworks is permitted with development consent. The proposed collector road is situated within E4 zoned land with *Roads* being a permitted with consent land use. The proposal includes flood storage basins located within E4, RU2 and C2 zoned land. The flood storage basins constitute *Flood mitigation works* being permitted with consent land uses in the E4, C2 and RU2 zone.

Clause 4.1 - Minimum subdivision lot size

Clause 4.1 of the Penrith LEP has a minimum lot size of 1,000m² for land within the E4 zone and 400,000m² (40 hectares) for the remaining land. However, clause 4.1(4) states that the clause does not apply to subdivision of land under the *Community Land Development Act 2021*. As the application proposes Community Title Subdivision, this clause does not apply.

However, for completeness, all of the proposed lots within the E4 zone are more than 1,000m² in area and proposed Lot 6 (in the remaining portion of the site) is more than 40 hectares in area.

Clause 4.1AA Minimum subdivision lot size for community title schemes

Clause 4.1AA applies to subdivision under the *Community Land Development Act 2021* of land in the RU2 Rural Landscape zone and C2 Environmental Conservation zone. This clause does not apply to land in the E4 General Industrial Zone.

In the RU2 Rural Landscape zone and the C2 Environmental Conservation zone, the size of any lot resulting from a subdivision of land under the *Community Land Development Act 2021* is not to be less than the minimum size shown on the Lot Size Map under the PLEP. In accordance with the PLEP the minimum lot size requirement in the land zoned RU2 and C2 is 40 hectares. Lot 6 contains land zoned RU2 and C2 and has a size of 59.82ha, which complies with the 40ha minimum lot size requirement. The remaining land is zoned E4 and the provisions of this clause do not apply.

In light of the above, the proposal complies with the minimum lot size provisions in regard to the Community Title Subdivision component of the proposal.

Clause 5.10 - Heritage conservation

The provisions of this clause requires the consent authority to consider the impact from development on items of heritage significance.

Under the PLEP Luddenham Road is identified as local heritage item "Luddenham Road Alignment". The proposal includes subdivision seeking to dedicate 40m of road widening at the sites Luddenham Road frontages in order to provide the intended future road provision noting the nomination of Luddenham Road as a Primary Arterial Road under the Western Sydney Aerotropolis. It is noted that the Primary Arterial Road nomination is applicable to Luddenham Road south of the Warragamba Pipelines. Furthermore, the site is subject of a Voluntary Planning Agreement which requires the 40m road widening dedication prior to an Occupation Certificate being issued for development.

The only other works within Luddenham Road relate to telecommunication and electricity reticulation connections and provision of drainage connections from the north-eastern and southern-eastern storage basins.

The applicant has removed annotations on the plans relating to tree removal within Luddenham Road.

In light of the above, the proposal has been accompanied by a Heritage Impact Assessment which concludes no adverse impacts on heritage significance are proposed via the proposal. However, in the long term and when road upgrades are required the heritage significance of the road will be significantly altered. As such, the application was presented to Council's Heritage Advisor which has suggested the species of plantings within Luddenham Road shall be understood to inform new plantings within landscape setbacks to Luddenham Road.

The tree species have been identified as *Eucalyptus eugenoides*, *Acacia decurrens*, *Eucalyptus tereticornis*, *Eucalyptus amplifolia*, *Angophora subvelutina*, *Eucalyptus moluccana* and *Melaleuca decora*. These species can be utilised within the landscaped setback to tie the proposal with the heritage significance of Luddenham Road.

A review of SSD-69845208 landscape plans (being the application for the Alspec industrial facility with frontage to Luddenham Road) identifies some of the above species within the setback. It is noted that the southern Luddenham Road setback will be embellished as part of future warehouse/site intersection applications.

In light of the above, the proposal has demonstrated heritage impacts as being minimal and satisfactory.

It is noted that Aboriginal cultural heritage has been discussed as part of the Integrated Development discussion within this report.

Clause 5.21 - Flood planning

The provisions of this clause seek to minimise flood risk to life and property, allow development that is compatible with flood function and associated climate changes, to avoid adverse flood impacts and enable safe occupation and evacuation of the land.

The proposal has been accompanied by a depth flood assessment report which nominates flooding occurrence on-site relative to the unnamed watercourse within the north-western corner of the site. The proposal seeks to fill land identified within the flood fringe and storage areas therefore, the application includes three large flood storage basins on the western side of earthworks and outside the creek. The flood storage basins will mitigate any flooding impacts resulting from the extent of filling works. The flooding assessment includes required climate change scenarios and has considered stormwater management provisions as part of the industrial development. The required on-site detention basins will assist control post development flows during storm events which will contribute to minimising flood impacts.

The flood storage basins are located within the (unmapped) Outer Sydney Orbital. Transport for New South Wales have been contacted and following a meeting have provided correspondence dated 21 August 2024 raising no objections to the proposal. Any environmental considerations will be addressed by TfNSW during preparation of the Environmental Impact Statement for the Outer Sydney Orbital. In this regard, recommended conditions of consent will require the imposition of covenants and restrictions ensuring the flood storage basins remain in perpetuity. The applicant has also provided an additional flood storage basin to compensate for any future pylon works that may be required as a result of the Outer Sydney Orbital. In this regard, the application has considered flood planning impacts as a result of the proposed works and likely future works from earmarked infrastructure (i.e. Outer Sydney Orbital).

The flood assessment has considered civil plans which include the irrigation of storage basins within one of the flood storage basins.

The application concludes that no adverse flooding impacts will occur as a result of the proposal. The application has received General Terms of Approval from Department of Environment - Water in relation to riparian corridor impacts.

Council's Development Engineering, Flooding and Waterways Departments have reviewed the proposal with consideration of the provisions within this clause and have raised no objections subject to recommended conditions. In this regard, the proposal is considered satisfactory in relation to flood planning requirements.

Clause 7.1 Earthworks

The proposal involves earthworks underpinned by flooding within the western portion of the land, the need to appropriately drain the site, provision for Collector Road infrastructure to achieve tie in with future external road works and connections to future industrial buildings and requirement to balance these provisions with reducing earthworks wherever possible.

The proposed earthworks are generally consistent with the topography of the land in relation to south to north slopes and slopes to the south-east and north-west. The bulk earthworks plan identifies majority of excavation works located within the northern portion of the site and filling works to the south/south-east. Furthermore, the excavation works are required to provide the flood storage basins and bio-retention/storage basins. The proposal results in batters to adjoining roads, future roads, internal pads, neighbouring land, flood storage basins and areas outside of the proposed works (i.e. conservation areas and transmission easement).

The western boundary of the earthworks for pads sits approximately 8m above the adjoining flood storage basin and is treated with a batter and access path between. The southern interface of the earthworks to the

avoided land include batters which alternate between tapering down and up from the pad levels. The curve in the Collector Road is treated with a tiered retaining wall consisting of sandstone blocks, plantings and reaching a cumulative height of approximately 2.5m.

The western and southern boundary of Pad 5a sits below the adjoining avoided land and neighbouring property and is treated with a batter and swale to collector water flows. The Pad 5b levels sit inline with the neighbouring southern property until the stormwater basin works which is treated with a batter for the 6m level difference (basin sits below adjoining land). Noting the siting of the works below the adjoining residents there are no adverse visual impacts envisioned. The south-eastern earthworks interface with the road widening consists of small batters which are not envisioned to generate any adverse visual impacts. It is noted that these batters will be embellished as part of future industrial development and intersection works.

Pad 3c levels sit approximately 5m below the adjoining land to the north and is treated by a batter. Noting the adjoining property is higher than the proposed works there are no adverse visual impacts envisioned resulting from the proposed works furthermore, the extent of level change minimises eastward toward Luddenham Road. The eastern boundary of the earthworks with the Bosna Croatia Club is treated with small batters and is not envisioned to generate any adverse visual impacts.

Pad 7 is treated with only minor batters to the adjoining southern land with the exception of the storage basin which sits 3m below the adjoining land. No adverse visual impacts are envisioned noting the distance of existing structures to these works and the lower lying nature of the proposal. The Pad 7 interface with Luddenham Road (future widening) is treated with a batter of approximately 3m. The applicant has specified that the Luddenham Road batter will be embellished at the time of the associated industrial building. A review of SSD-69845208 for the Alspec Warehouse on Pad 7 includes landscaping embellishment in this location to ensure adequate interface with the future widened Luddenham Road.

The northern boundary of Pad 7 addresses Patons Lane which is subject of upgrade works under Voluntary Planning Agreement provisions. The applicant has specified that Patons Lane upgrade works and round-about intersection with the Collector Road and signalised intersection with Luddenham Road will be provided via a future separate application. The application has been accompanied by draft civil plans to provide an indication of road levels which will inform interfaces with the adjoining pad. The draft Patons Lane works indicate the road levels will be reduced by 1.3m below the existing level along the eastern extent of the road and will be raised by 2m only in the western extent nearby the intersection with the Collector Road. In this regard, the batter along the eastern extent of Pad 1 fronting Patons Lane is approximately 4m and 4m along the western extent.

The Alspec Warehouse SSD plans indicates retaining walls and extensive planting is utilised to manage the batter interface.

The applicant has specified the level difference between pad levels and the Collector Road can be dealt with at built form stage which will require adequate front landscape setbacks and levels can be refined to integrate with neighbouring development.

The following comments are provided in relation to the matters of consideration under this clause:

- the proposal has demonstrated drainage of the site can be adequately provided and conditions of consent will ensure soil is suitably stabilised,
- as mentioned above, the proposed earthworks have been designed to allow for the future industrial development of the land,
- the proposal has demonstrated the land will be remediated prior to works and an unexpected finds protocol will be in place to manage any unforeseen land conditions. Fill management protocols are in place

to ensure fill materials are suitable for the development,

- the proposal is not envisioned to have any adverse impacts on neighbouring properties as defined above. The adjoining eastern parcel of land is industrial zoned land and the application has been accompanied by indicative level plans showing road connections from the Collector Road to this land. As such, the likely amenity of adjoining properties has been considered,
- the application has been accompanied by General Terms of Approval relating to an Aboriginal Heritage Impact Permit therefore, impacts on relics have been considered,
- the proposal has demonstrated consideration and protection of the riparian corridor, avoided land and strategic conservation areas on-site, and
- the proposal has considered impacts on local heritage item Luddenham Road Alignment.

In light of the above, the proposed earthworks is considered satisfactory.

Clause 7.5 Protection of scenic character and landscape values

The provisions of this clause seeks to identify and protect areas that have scenic and landscape values from major roads, identified heritage items or other public places. The consent authority must be satisfied that measures will be taken to minimise visual impacts.

The land identified as having scenic and landscape values is within the eastern portion of the site consistent with the eastern face of the ridge visible from Luddenham Road.

The proposal includes batters to high sitting land addressing Luddenham Road however, the applicant has stated these interfaces will be embellished with future landscaping to screen views to future industrial development. In addition, views northbound and southbound from Luddenham Road are not envisioned to generate any adverse visual impacts noting the siting of dense vegetation on the northern side of Patons Lane and considering the proposal excavates below natural ground level along the south-western boundary therefore, not being visible from Luddenham Road northbound.

As mentioned previously within this report, SSD-69845208 (being the Alspec industrial facility development fronting Luddenham Road) includes landscaping embellishment addressing Luddenham Road. Furthermore, Penrith DCP 2014 requires a 10m landscaped setback to Luddenham Road.

In this regard, the proposal is not envisioned to generate any adverse visual impacts and development controls are in place to ensure efforts are made to reduce visual impact of future industrial development.

Clause 7.6 Salinity

The provisions of this clause seek to understand development impacts on salinity processes, whether salinity processes impact development and measures to avoid or reduce undesirable effects from salinity processes.

The application has been accompanied by a Salinity Management Plan including 165 soil samples within industrial zoned portion of the land. Approximately 16% of the soil samples have identified the land as moderate to very saline. The report has also identified 5 soil samples which have identified moderate saline areas at shallow depths. The moderately saline soils at shallow depths are largely located within the northern area of the site which is subject to filling works.

The Salinity Management Plan includes recommendations to address salinity, some these recommendations are specified below:

- imported soil shall ensure non-saline soils are deposited at the site,
- ensure measures are in place to prevent the accumulation and pooling of water,
- areas to be excavated identified as moderate/highly saline shall be replaced with non saline soils to a 1m depth,
- preferably design the proposal to align with existing drainage patterns to prevent water from collecting in areas where it previously would not collect. It is noted that drainage catchments are relatively consistent with the pre development scenario.

The Fill Management Protocol includes a criteria requiring only non-saline or slightly saline soils to be deposited at the site which aligns with the Salinity Management Plan recommendations.

The recommendations within the Salinity Management Plan will be adhered to via relevant conditions of consent.

The application has been accompanied by a geotechnical investigation of the flood storage basins which are located outside the scope of the above mentioned Salinity Management Plan. The flood storage basin included 46 soil samples of which 46% identify moderately saline soils. The report recommends the Soil Management Plan, located within the report, be adhered to to manage soil salinity impacts. The Soil Management Plan recommendations are largely consistent with the Salinity Management Plan and as such are considered satisfactory and will be conditioned.

In addition to the above, the application has been accompanied by a Supplementary Geotechnical and Salinity Investigation focusing on Salinity Management in the Outer Sydney Orbital and detention ponds noting the storage of water in these areas and the proposed irrigation of these areas to manage stormwater volume. The report includes a list of strategies to manage salinity which will form part of the recommended conditions of consent. It is noted that vegetation plantings have been proposed within the Outer Sydney Orbital and irrigation areas to assist evaporation and reduce groundwater recharge.

Councils Waterways Team have reviewed the proposal and raised no objections subject to recommended conditions of consent. In this regard, the application has adequately reported on salinity within the area of applicable works and includes recommendations to management undesirable impacts.

Clause 7.7 Servicing

The provisions of this clause seeks to ensure development of land can demonstrate access to required services such as potable water and sewage management.

The proposal seeks site preparation works for future industrial development, and as such there will be no

demand for potable water (apart from firefighting measures) or sewage generation as part of the proposed works. However, the proposal does include the connection of utility services to the site which includes the following:

- potable water connection to Sydney Water's network with pipework located within Patons Lane,
- electricity and telecommunications connections located within Luddenham Road, and
- privately managed sewage disposal and recycled water network.

The application includes the pipework for the above works now with potable water, electricity and telecommunications reticulation located within the Collector Road and private sewage and recycled water pipes located in private land.

The sewerage management is subject of a separate development application currently being considered by Council (DA24/0654) which will collect sewage from future operations, treat the sewage, and reuse the treated product in cooling towers, toilet flushing and irrigation.

The application has been referred to Sydney Water which have stated they have no comment regarding private sewer and recycled water mains being delivered on private land. Sydney Water have suggested portable water supply can be managed via the Section 73 process and have suggested that the private sewage and recycled water pipes be sized and configured to relevant code requirements. It is noted that correspondence received for DA24/0654 specifies the pipework is provided to allow for future Sydney Water connection.

The DA was amended to replace Torren subdivision with Community Title Subdivision, to address concerns relating to how a future shared sewerage system was to be managed by multiple lots benefitting from the shared system. However, this also means that the current proposal will create large (residue) land parcels that are not yet serviced by a suitable sewerage management arrangement.

An OSSM (proposed under a separate development application) would be located on the Association Part-Lot 1, and future industrial developments would be located on separate community lots. The Community Title Subdivision arrangement provides a level of assurance regarding the ongoing operation and maintenance of any shared sewerage management system. This would include a Community Title Association Scheme addressing the ongoing maintenance and management of any shared sewerage system.

In addition, conditions are recommended to require the relevant restrictions, easements and covenants on title. This includes easements for irrigation areas (to receive the recycled / returned grey water) to individual lots. Community Title subdivision would also protect against fragmentation of the sewerage management system from individual lots that rely on the arrangement for wastewater management and dispersal.

In addition, a condition is recommended to require a restriction on title for each lot that restricts 'wastewater generating development' until an agreed sewage management arrangement is complete and ready to operate and until required easements, covenants and restrictions have been imposed on the land, (being all benefiting and burdened lots), which would allow the sewage management system to be maintained.

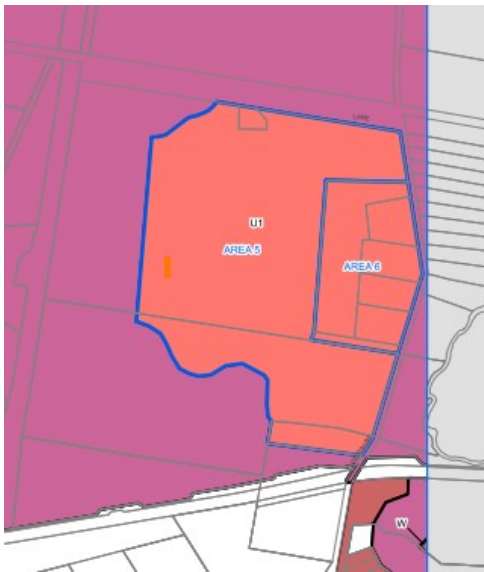
Regarding road services, the applicable Voluntary Planning Agreement includes provisions for estate road access to the wider external traffic network with associated upgrade works required.

Clause 7.24 Minimum number of lots at 221–325 Luddenham Road, Orchard Hills

Clause 7.24 of the Penrith LEP was inserted at the time of the Planning Proposal to rezone the land to permit industrial uses. The intent of the clause is to provide for smaller format industrial uses and achieve diversity of scale.

The clause applies to all of the land known as the Luddenham Road Industrial Business Park. However, for the purposes of this development application, the clause is applicable to land referred to as Area 5, being mostly land which includes the subject site, noting that the separate site to the south is not owned by the applicant but is also within Area 5. It is understood that the developer may seek to acquire the site to the south.

The snippet below is from Sheet 14 of the Lot Size Map in the Penrith LEP showing Areas 5 and 6 of the Luddenham Road Industrial Business Park.



Areas 5 and 6 Relative to Clause 7.24 of the Penrith LEP

Clause 7.24 states that development consent must not be granted for the subdivision of land unless the consent authority is satisfied that at least 40 lots will be created in "Area 5" on the lot size map. Although not relevant to this application, the clause also requires that at least 60 lots will be created in "Area 6". The land within Area 6 is not owned by the applicant and is not part of this current Development Application.

Clause 7.24 of the Penrith LEP reads as follows:

7.24 Minimum number of lots at 221–325 Luddenham Road, Orchard Hills

- (1) This clause applies to land at 221–325 Luddenham Road, Orchard Hills, identified as "Area 5" and "Area 6" on the *Lot Size Map*.
- (2) Development consent must not be granted for the subdivision of the land to which this clause applies unless the consent authority is satisfied that—
 - (a) at least 40 lots will be created in "Area 5" on the *Lot Size Map*, and
 - (b) at least 60 lots will be created in "Area 6" on the *Lot Size Map*.

The proposal seeks consent for subdivision of land to create eight Community Title lots. Of the eight proposed lots, one lot is for the future internal estate road (Lot 8), one lot reflects the carving out of the residual land zoned RU2 and C2 (Lot 6), and one lot is preserved for a (possible) future sewerage management system and a stormwater basin (Lot 1).

The five remaining proposed lots are the 'developable' lots, being Lots 2, 3, 4, 5, and 7. These proposed lots are large residual lots, ranging in size from 3.16 hectares (smallest) to 26.51 hectares (largest).

Therefore, the current proposal is creating larger residual super lots, rather than the minimum 40 lots required by clause 7.24 for Area 5.

However, clause 7.24 requires the consent authority to be satisfied that "*at least 40 lots will be created*". Although the current proposal will not create 40 lots at this time, it is reasonable that the proposal start to carve out the land into large residue super lots. The creation of the proposed lots does not fetter the ability for the minimum 40 lots to be created with future applications and subsequent development of the site.

The application is accompanied by a set of drawings which show the applicant's intention for the site. This is an indicative, conceptual masterplan. The conceptual masterplan is provided to the Panel members in the attachment of supporting documents. The conceptual masterplan does not form part of the Penrith LEP or DCP (Chapter 18) and the indicative concept has not been formally endorsed or agreed to by Council (either as a Concept DA or part of the DCP site-specific chapter). However, the applicant's conceptual masterplan identifies how the precinct is envisaged to be developed to comply with the minimum lots required by clause 7.24. The conceptual masterplan shows early staging super lot subdivision, with those superlots intended to be further subdivided at later stages. The conceptual masterplan shows that at the last stage of development 40 lots can be provided in Area 5. Most of the small lot formats are shown in the south-eastern portion of Area 5.

Therefore, the consent authority can be satisfied that 40 lots will be created on the relevant land. However, it is also considered pertinent to impose a condition on this consent (given that the proposed development includes subdivision) that requires a restriction on title stating that no development (except for any approved bulk earthworks, remediation, dam dewatering, roadworks and vegetation removal) is permitted on the lots hereby burdened (being Lots 2, 3, 4, 5, and 7), unless it is demonstrated to the satisfaction of Penrith City Council, that the subdivision yield for each burdened allotment is compliant with Clause 7.24(2) of the Penrith LEP.

This recommended condition is considered to be required because the conceptual masterplan does not hold any statutory weight. It has not been lodged as part of a Concept DA and does not form part of the LEP or DCP. In the absence of this, a restriction on title is appropriate. It will also allow Council the flexibility to vary the restriction at stages of development roll out, while ensuring that the vision and intent for the site remains compliant with the minimum lots required by clause 7.24 of the LEP.

Clause 7.30 Urban Heat

The provisions of this clause apply to the industrial zoned portion of the site and requires the consent authority to be satisfied that planning and design measures are incorporated to reduce the urban heat island effect.

The proposal includes three stormwater management detention basins which will contribute to retaining water on-site and providing cooling effects. The proposal includes street tree plantings providing canopy cover to the Collector Road being impervious area subject of the application. In addition, future development will require compliance with site specific landscape setback controls providing additional shading effects within the precinct.

The proposal, at this stage, relates to bulk earthworks and does not seek to create hardstand areas beyond the road and driveway. In this regard, the proposal includes design measures to reduce the urban heat island. Future development within the precinct will incorporate planning and design measures to minimise the urban heat island effect.

In light of the above, the proposal is considered satisfactory for the purposes of this clause.

Clause 7.32 - Development of land in the transport investigation area

The provisions of this clause prevent development consent from being granted unless concurrence from the Planning Secretary has been received when development on land in the Transport Investigation Area is proposed.

The Transport Investigation Area is identified as the 40m road widening area on the frontage of the site to Luddenham Road. The proposal includes works in this location including electricity and telecommunication reticulation connections and stormwater drainage connections to Luddenham Road. The proposal also includes dedication of land for road widening purposes in this location.

A concurrence request was issued to the Department of Planning Housing and Infrastructure via the NSW Planning Portal. The Department responded on 11 July 2024 granting concurrence. As such, development consent can be granted.

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
C7 Culture and Heritage	Complies
C8 Public Domain	Complies
C9 Advertising and Signage	N/A
C10 Transport, Access and Parking	Complies
C11 Subdivision	Complies
C12 Noise and Vibration	Complies
C13 Infrastructure and Services	Complies
C14 Urban Heat Management	Complies
D4.1. Key Precincts	N/A
D4.2. Building Height	N/A
D4.3. Building Setbacks and Landscape	N/A
D4.4. Building Design	N/A
D4.5. Storage of Materials and Chemicals	N/A
D4.6. Accessing and Servicing the Site	N/A
D4.7. Fencing	N/A
D4.8 Lighting	N/A
E18 - Luddenham Road Industrial Business Park	Complies - see Appendix - Development Control Plan Compliance

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

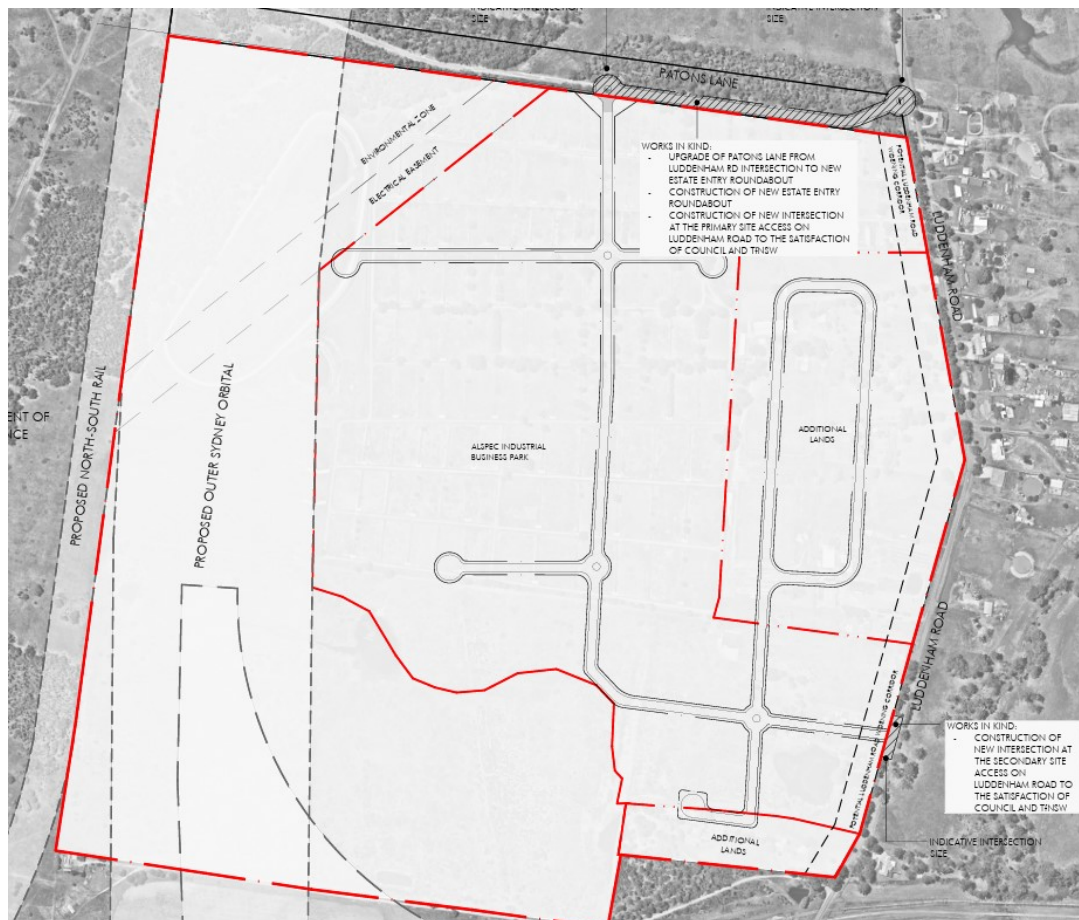
The site is the subject of a Voluntary Planning Agreement (VPA) between Penrith City Council and the developers/landowners. The VPA relates to the delivery of the below listed works and dedications, the timing of delivery is also specified in accordance with the VPA terms:

- upgrade of Patons Lane from Luddenham Road through to the new western estate entry round-about that provides access into the land - **to be delivered prior to the issue of the first Occupation Certificate for the Development,**
- construction of one (1) new round-about at the estate entry on Patons Lane and one (1) new intersection on Luddenham Road to the satisfaction of Council and Transport for New South Wales - **to be delivered**

prior to the issue of any Occupation Certificate for the Development,

- construction of an intersection at the secondary site access to the satisfaction of Council and Transport for New South Wales - **prior to 1 January 2026,**
- dedication of land to Council for widening for Luddenham Road - **prior to the issue of any Occupation Certificate for the development,**
- provision of road access to the "Additional Lands" in the Eastern and Southern parts of the Land - **not subject of timing in accordance with Schedule 1 table.**

The *Plan showing Works* located within the VPA is shown below for identification purposes.



(Image of Plan showing Works in VPA)

The development will not require an Occupation Certificate considering the proposal relates to site preparation work including bulk earthworks, road, stormwater management infrastructure and flood mitigation works. In this regard, the provision for intersection and road upgrade works is not required at this stage but will be required prior to an Occupation Certificate which will be applicable to other development.

The Luddenham Road widening dedication is proposed now. The dedication of this land is tied to the issue of an Occupation Certificate. The proposed development will not impact the ability of the precinct to deliver the provisions under the VPA.

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

The Development Application has been notified in accordance with the provisions of the regulations noting the development is identified as "nominated integrated development" considering a Controlled Activity Approval is required.

The remaining provisions of the regulations have been addressed and will be addressed via recommended conditions of consent.

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

The Development Application has suitably avoided land with ecological values including the riparian corridor, avoided land and strategic conservation area. Furthermore, the proposal has demonstrated trees on adjoining property abutting the proposed works have been avoided to ensure suitable retention. The extent of earthworks has been discussed within this report and is considered satisfactory noting flood impacts, stormwater management and interfaces with adjoining land and road frontages have been suitably considered.

The proposal includes three flood storage basins to mitigate filling works within flood affected land ensuring no adverse flood impacts on and off-site. The stormwater management measures have considered the future development within the precinct ensuring the quantity and quality of stormwater can be accommodated. The application has been referred to TransGrid and Endeavour Energy ensuring asset owners have considered the impacts of the proposal on their infrastructure.

The Development Application has demonstrated how the land can be suitably irrigated without adversely impacting geotechnical provisions including salinity and groundwater.

The development will be required to provide road and intersection upgrade works prior to operational demands in accordance with the VPA obligations. The application includes utility servicing ensuring the proposal can service future industrial development. It is noted that sewage will be treated on-site and is subject of a separate Development Application (DA24/0654).

The above matters have been discussed in depth within the content of this report. The following additional items are also discussed below.

Construction Vehicles

The application has demonstrated that construction traffic generated by the cumulative Alspeck Industrial Estate Development can be appropriately managed on-site to avoid impacts regarding access and egress to existing development surrounding the site. This was a particular concern raised by Sydney Metro, who have now granted concurrence subject to conditions, which the applicant has accepted.

Sewage Management

The site is not serviced for sewage and will rely on an onsite sewage treatment plant, that is currently proposed in Development Application DA24/0654. The sewage system application is being assessed by Council staff and will also be considered and determined by the Sydney Western City Planning Panel noting it is private infrastructure exceeding an estimated development cost of \$5 million.

The current Development Application for bulk earthworks and subdivision has been amended to replace the previously proposed Torrens Title subdivision with Community Title subdivision. This includes the creation of eight Community Title Lots (super lots) which could be registered prior to an approved estate sewage management system. The maintenance, ongoing operation and funding of the sewage treatment plant can be coordinated by the Association under a Community Title Subdivision arrangement. In addition,

Community Title Subdivision prevents fragmentation of the sewage management system from the sites it services within the industrial estate.

Suitable conditions are recommended as part of this application to ensure that the relevant easements, covenants, and restrictions are placed on the lots prior to the release of the Subdivision Certificate. The final position and location of some of the easement can be resolved prior to Subdivision Certificate stage, if any changes are needed).

An additional restriction on title is recommended to be imposed on the lots, so that development that generates wastewater cannot occur until such time that an agreed sewerage management arrangement for the sewage services is available.

In this regard, there are no adverse wastewater management impacts on the future operation of the estate via a preceding Community Title Subdivision.

Cumulative Noise

The proposal has been accompanied by a Cumulative Noise Impact Assessment (NIA) which has made assumptions for future developments within the estate (using the indicative MasterPlan) to inform how cumulative operational noise and road traffic noise can be managed within the estate to ensure noise criteria is achieved for surrounding receivers.

Council's Environmental Management Team have reviewed the NIA and have provided the following commentary. The NIA includes as Appendix A, individual lot contributions, that allocates operational noise level criteria for each future warehouse. If future warehouses and developments operate so that noise levels emitted to receivers are within the allocated noise level provided in Appendix A, then the cumulative noise from the operation of the estate as a whole, should be able to comply with noise target levels (as prescribed in the NSW Environment Protection Authority Noise Policy for Industry) at all receivers.

Whilst the NIA provides a high-level operational noise assessment based upon operational assumptions and unknowns, it provides a clear and reasonable framework under which future lot specific NIA's can be guided by and it will be valuable in informing future lot specific design and Development Application assessment.

The NIA recognises that construction of noise barriers is likely required as the southeastern portion of the estate development (the area located within part of Lot 3 and in Lot 5 of this proposal). However, noise barrier requirements cannot be determined until further development of the overall estate and its immediate surrounds, including the immediately adjoining eastern land, occurs. Requirements and provisions of noise barriers need to be addressed as Lots 3 and 5 undergo further subdivision and development.

In order to ensure the NIA is considered with future development applications, future development applications should provide Noise Impact Assessments acknowledging the cumulative NIA and that any exceedances are appropriately reported with a new cumulative impact assessment. A recommended condition is imposed requiring a positive covenant to be applied to new lots created.

Council's Environmental Management Team have raised no objections subject to recommended conditions of consent.

Private Infrastructure

The proposal includes the construction of the Collector Road which will eventually be dedicated to Council for the purposes of public road. The proposal also includes the construction of sewerage and recycled

water pipes which will be operated privately. In order to service the development, the private reticulations will need to cross the road in certain locations (known as short crossings). Council's Development Engineering Team have reviewed this component of the proposal and raise no objections subject to conditions considering the short crossings can be dealt with via formal maintenance agreements.

In light of the above, and findings of this report, there are no adverse likely impacts envisioned as a result of the development.

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

The site is subject of a Planning Proposal to rezone the land, which has considered the ability of the site and surrounding infrastructure to accommodate the site for the future industrial development purposes. The land rezoning included Chapter E18 of the Penrith Development Control Plan 2014 providing site specific development controls to guide the industrial development within the precinct. Additionally, the site is subject of a VPA which includes external road upgrade provisions to ensure the surrounding road network can accommodate the increased vehicle generation resulting from the future development.

The proposal has demonstrated conservation and restoration of ecology on-site, mitigated flooding impacts, has support from TransGrid and Endeavour Energy noting the location of the transmission easement and Orchard Hills Switching Station either within or nearby the site, has no objection from Sydney Metro noting Patons Lane is the only site access and conflict with construction vehicles is addressed via conditions, and has addressed bushfire threats, groundwater impacts and salinity. Furthermore, the proposal has reported on European and Aboriginal heritage with impacts to be appropriately addressed and the land can be made suitable for the intended purpose of the site.

In light of the above and findings of this report, the site is considered suitable for the proposed development.

Section 4.15(1)(d) Any Submissions

Community Consultation

The Development Application has been notified to surrounding property owners and exhibited in accordance with the provisions of the Environmental Planning and Assessment Regulation 2021 and Council's Community Participation Plan. The Development Application was exhibited from 27 May 2024 to 25 June 2024 and advertised within the Western Weekender newspaper with an issue date of 23 May 2024. No submissions have been received.

Referrals

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

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

Environmental - Biodiversity

Council's Biodiversity Team have reviewed the submitted Vegetation Management Plans for the avoided lands and riparian corridor as well as the Biodiversity Management Plan which applies to the industrial zoned area. These reports have been endorsed by Council's Biodiversity Team and appropriate conditions of consent have been recommended to ensure the provisions of these documents are enacted during site works.

The reason for non-support from the Biodiversity Team relates to tree impacts at the northern boundary between Pad 3c and the adjoining northern land. The adjoining northern land is identified as 287 Luddenham Road and is not subject of the Development Application. Furthermore, there are no current development applications applicable to this site. In this regard, Council's Biodiversity Team did not support tree removal on this land.

The proposal includes battering works within Pad 3c up to the boundary to address the near 5m level change between the proposed internal levels and existing external levels. As such, the accompanying Arborist Report recommends the removal of these trees noting the encroachments into the tree protection zones.

Lot 287 Luddenham Road forms part of the additional eastern lands which has been rezoned for industrial purposes and is earmarked to provide 60 smaller industrial lots in accordance with the provisions within Penrith Local Environmental Plan 2010 relating to minimum lot numbers within this area. In order to access the eastern additional lands, the indicative masterplan identifies a road connection which stems from the proposed Collector Road to the eastern additional lands.

This connecting road forms part of the Voluntary Planning Agreement (VPA) obligations and therefore, is required to be provided under the terms of the VPA. It is noted that the road does not form part of the proposed works however, the applicant has provided indicative levels of future lots with the eastern additional land and the corresponding connecting road levels. The pad level of the site (287 Luddenham Road) and connecting road are some 1m to 2m below the existing ground levels. As such, the retention of these trees would be diminished when future works subject of VPA provisions occur.

Further, the developer has recently acquired 287 Luddenham Road and therefore, will not need to rely upon separate owners consent for the potential removal of these trees in the future.

Trees within the eastern and southern additional lands which abut boundaries of the proposal in other locations have been preserved considering these areas are not in the developers ownership and are not subject of indicative levels subject of VPA obligations. For reference the submitted Arborist Report reports on 80 trees located at the boundaries between the eastern and southern additional lands to the proposed works, of the 80 trees 10 trees are required to be removed in the location specified above.

In this regard, the proposed tree removal is considered supportable noting the works required subject of VPA provisions, the extent of trees to be retained and the revegetation measures within the avoided lands across the estate as specified within the endorsed Vegetation Management Plans.

Section 4.15(1)(e)The public interest

There are no significant issues relating to the public interest envisioned as a result of the proposed development, subject to the recommended conditions of consent which will ensure adequate serving of the site and protection of vegetation.

Conclusion

The Development Application is in accordance with the relevant planning considerations and has received the required external authority concurrences and approvals. The proposal will not impact the ability of future development to achieve VPA obligations and the proposal is in accordance with the relevant considerations of the regulations. The Development Application has demonstrated there are no adverse likely impacts envisioned and the site is suitable for the proposal. The site preparation application has demonstrated the site can accommodate future industrial land uses. The matters relating to subdivision and the undetermined DA for the private sewage service is addressed via conditions in this recommendation to have a restriction on title. The application is considered to be within the public interest. In this regard, and findings of this report, the application is recommended for approval.

Recommendation

That DA24/0294 for site preparation works inclusive of bulk earthworks, clearing works, remediation works, utility services, stormwater management infrastructure, ecology conservation, flood storage basins, landscaping embellishment and associated 8 (eight) Community Title Subdivision to create super lots and dedication of land for Luddenham Road widening at 211-227 and 289-317 Luddenham Road, Orchard Hills be approved by the Sydney Western City Planning Panel subject to the attached recommended conditions.

CONDITIONS

General

- The development must be implemented substantially in accordance the following stamped approved plans and supporting information received with the application, except as may be amended on the stamped plans or by the following conditions within this consent:

Plan No.	Plan Title	Prepared By	Revision	Date
51007 010DP	Community Title Subdivision Plans Sheet 1 of 3 - Location Plan Sheet 2 of 3 - Detail Plan Sheet 3 of 3 - Association Property Plan	Mathew Graham Smith LTS	-	07/04/2024
C000	Cover Sheet, Drawing Schedule & Locality Sketch	Henry & Hymas	6	24/09/2024
C010	Notes	Henry & Hymas	3	01/03/2024
C050	CPCP Overlay	Henry & Hymas	1	24/09/2024
C100	General Arrangement Plan	Henry & Hymas	7	24/09/2024
C101	Detail Plan Sheet 1 of 6	Henry & Hymas	10	24/09/2024
C102	Detail Plan Sheet 2 of 6	Henry & Hymas	11	05/11/2024
C103	Detail Plan Sheet 3 of 6	Henry & Hymas	9	16/12/2024
C104	Detail Plan Sheet 4 of 6	Henry & Hymas	10	24/09/2024
C105	Detail Plan Sheet 5 of 6	Henry & Hymas	7	24/09/2024
C106	Detail Plan Sheet 6 of 6	Henry & Hymas	12	16/12/2024
C110	Site Sections Sheet 1 of 5	Henry & Hymas	5	30/08/2024
C111	Site Sections Sheet 2 of 5	Henry & Hymas	5	30/08/2024
C112	Site Sections Sheet 3 of 5	Henry & Hymas	6	12/11/2024
C113	Basin Sections Sheet 4 of 5	Henry & Hymas	1	12/10/2023
C114	Basin Sections Sheet 5 of 5	Henry & Hymas	1	12/10/2023
C120	Road Longitudinal Section	Henry & Hymas	3	01/03/2024
C130	Typical Road Sections and Line Marking Plan	Henry & Hymas	5	24/09/2024
C140	Overall Site Sections Sheet 1 of 3	Henry & Hymas	4	30/08/2024

C141	Overall Site Sections Sheet 2 of 3	Henry & Hymas	3	30/08/2024
C142	Overall Site Sections Sheet 3 of 3	Henry & Hymas	1	30/08/2024
C150	TransGrid Works Plan	Henry & Hymas	1	30/08/2024
C160	North-West Outlet Plan	Henry & Hymas	2	24/09/2024
C200	Stormwater Miscellaneous Details and Pit Lid Schedule	Henry & Hymas	4	30/08/2024
C201	North-West Basin Plan	Henry & Hymas	6	12/02/2025
C202	North-East Basin Plan	Henry & Hymas	7	12/02/2025
C203	South-East Basin Plan	Henry & Hymas	7	12/02/2025
C204	Basin Typical Details	Henry & Hymas	4	30/08/2024
C210-C217	Stormwater Longitudinal Sections Sheet 1 to 8	Henry & Hymas	3 & 4	01/03/2024 and 30/08/2024
C230	CDS Unit Typical Details Sheet 1 of 2	Henry & Hymas	1	17/10/2023
C231	CDS Unit Typical Details Sheet 2 of 2	Henry & Hymas	1	17/10/2023
C250	Pre Development Catchment Plan	Henry & Hymas	3	12/20/2023
C251	Post Development Catchment Plan	Henry & Hymas	5	22/03/2024
C500	Pavement Plan - Sheet 1 of 2	Henry & Hymas	4	30/08/2024
C501	Pavement Plan - Sheet 2 of 2	Henry & Hymas	4	30/08/2024
C502	Pavement Typical Details	Henry & Hymas	2	17/10/2023
SE01	Sediment & Erosion Control Plan Sheet 1 of 2	Henry & Hymas	5	24/09/2024
SE02	Sediment & Erosion Control Plan Sheet 2 of 2	Henry & Hymas	5	24/09/2024
SE03	Sediment & Erosion Control Details	Henry & Hymas	4	24/09/2024
BE01	Bulk Earthworks Cut and Fill Plan	Henry & Hymas	4	30/08/2024
DA280-DA286	Indicative Irrigation Plans	Nettletontribe	D, C, B	30/10/2024, 15/08/2024 and 03/09/2024
0001	Cover Sheet and Drawing List	Arcadis	4	19/11/2024
0061	General Arrangement Plan	Arcadis	4	19/11/2024

0501	Electrical and Telecommunication Reticulation Plan Sheet 1	Arcadis	3	19/11/2024
0502	Electrical and Telecommunication Reticulation Plan Sheet 2	Arcadis	3	19/11/2024
0503	Electrical and Telecommunication Reticulation Plan Sheet 3	Arcadis	3	19/11/2024
0521	Sewer Reticulation Plan Sheet 1	Arcadis	4	19/11/2024
0522	Sewer Reticulation Plan Sheet 2	Arcadis	4	19/11/2024
0523	Sewer Reticulation Plan Sheet 3	Arcadis	4	19/11/2024
0621	Potable and Recycled Water Reticulation Plan Sheet 1	Arcadis	4	19/11/2024
0622	Potable and Recycled Water Reticulation Plan Sheet 2	Arcadis	4	19/11/2024
0623	Potable and Recycled Water Reticulation Plan Sheet 3	Arcadis	4	19/11/2024
Sheet 1 of 3	Proposed Plan of Stormwater Reuse and Disposal Via Irrigation	Total Irrigation Designs	C	23/12/2024
Sheet 2 of 3	Proposed Plan of Storm Water Reuse and Disposal Via Irrigation	Total Irrigation Designs	C	23/12/2024
Sheet 3 of 3	Proposed Plan of Storm Water Reuse and Disposal Via Irrigation	Total Irrigation Designs	C	23/12/2024
00	Landscape Cover Sheet	Geoscapes	H	13/02/2025
01	Landscape Masterplan	Geoscapes	H	13/02/2025
01A	Typical Streetscape Layout	Geoscapes	H	13/02/2025
02	Streetscape Detail Plan - Sheet 1	Geoscapes	H	13/02/2025
03	Streetscape Detail Plan - Sheet 2	Geoscapes	H	13/02/2025
04	Streetscape Detail Plan - Sheet 3	Geoscapes	H	13/02/2025
05	Bioretention & Storage Basin Detail Plans	Geoscapes	H	13/02/2025
06	Terrace Wall Plan	Geoscapes	H	13/02/2025
07	Landscape Sections	Geoscapes	H	13/02/2025

08	Landscape Specification	Geoscapes	H	13/02/2025
09	Indicative Planting Schedule & Imagery	Geoscapes	H	13/02/2025
Report / Document Title		Prepared By		Date
TransGrid Conditional Approval		TransGrid		27 February 2025
Sydney Metro Recommendations		Sydney Metro		21 February 2025
Noise Impact Assessment		EMM		20 February 2025
Transport for New South Wales Recommended Condition		Transport for New South Wales		14 February 2025
Traffic Impact Assessment		Arcadis		30 January 2025
NSW Rural Fire Service General Terms of Approval		NSW Rural Fire Service		18 December 2024
Supplementary Geotechnical and Salinity Investigation		DRM		19 December 2024
Groundwater Impact Assessment		Ecological		22 November 2024
Geotechnical Investigation		DRM		24 April 2024
Arboricultural Impact Assessment & Tree Protection Plan		Tree Survey		17 December 2024
General Terms of Approval		Department of Planning and Environment - Water		4 November 2024
Stage 2 Detailed Site Investigation		DRM		24 October 2024
Contamination Assessment		DRM		23 October 2024
Remedial Action Plan		DRM		1 October 2024
Biodiversity Management Plan		Ecoplanning		24 September 2024
Vegetation Management Plan		Ecoplanning		18 October 2024
Integrated Water Cycle Management and Civil Engineering Report		Henry & Hymas		September 2024
Riparian Vegetation Management Plan		Ecoplanning		9 September 2024

Detailed Road Safety Audit	DC Traffic Engineering	20 August 2024
General Terms of Approval	Department of Primary Industries	4 September 2024
General Terms of Approval	Department of Climate Change, Energy, the Environment and Water (Heritage NSW)	15 August 2024
Clause 7.32 Concurrence	Department of Planning, Housing and Infrastructure	11 July 2024
Aboriginal Cultural Heritage Assessment	EMM	4 April 2024
Waste Management Plan	HBB	26 October 2023
Bushfire Assessment	Peterson Bushfire	7 May 2024
Salinity Management Plan	Construction Sciences	29 January 2021
Heritage Impact Statement	EMM	22 August 2023
Construction Air Quality Impact Assessment	EMM	6 July 2023
Bulk Fill Import Protocol	Construction Sciences	25 February 2021
Flood Assessment Report	Arcadis	30 August 2024

2 The development is required to comply with the conditions and requirements outlined within the following General Terms of Approval.

a) NSW Rural Fire Service dated 18 December 2024. The references in the NSW RFS GTA's that relate to the previous Lot 1 (from the previous Torrens Title subdivision) are taken to refer to Lot 7 in the approved Community Title Subdivision.

b) Department of Planning and Environment - Water dated 4 November 2024,

c) Department of Primary Industries dated 4 September 2024, and

d) Department of Climate Change, Energy, the Environment and Water (Heritage NSW) dated 15 August 2024.

The above specified General Terms of Approval have provisions to be complied with at certain milestones (prior to works, in perpetuity, prior to a Subdivision Certificate being issued etc). It shall be demonstrated that the provisions of the General Terms of Approval has been satisfied at the relevant required timing.

- 3 **Prior to the issue of any Subdivision Works Certificate**, documentary evidence must be prepared by a Registered Surveyor and submitted to the appointed Certifying Authority and the Council that includes and addresses the following:

(a) A letter, signed by a current NSW Registered Land Surveyor and including his or her Board of Surveying and Spatial Information (BOSSI) identification number, stating that all investigations required under Surveyor-General's Direction No.11 have been made for the subject site.

(b) The above letter is required to confirm if any survey infrastructure will be affected or impacted upon by the proposal. If no impact is identified this must be detailed by the Registered Land Surveyor.

(c) In the event that survey infrastructure is identified on the subject site and will be affected or impacted upon by the approved development, a copy of any Surveyor-General's Approval for Survey Mark Removal granted by NSW Spatial Services for the subject site, including all documentation submitted as part of that application (for example the survey mark audit schedule, strategy plan and strategy report) is required.

The applicant must, where possible, ensure the preservation of existing survey infrastructure undisturbed and in its original state or else provide evidence of the Surveyor-General's authorisation to remove or replace marks.

- 4 **Prior to the issue of any Subdivision Certificate**, documentary evidence must be prepared by a Registered Surveyor and submitted to the appointed certifying authority and the Council addressing survey mark preservation and protection. This evidence must include:

(i) A copy of any Surveyor-General's Approval for the Deferment of any Survey Marks granted by NSW Spatial Services for the subject site, including all documentation submitted as part of that application (for example the draft deposited plan) or

(ii) A letter, signed by a current NSW Registered Land Surveyor including her or his Board of Surveying and Spatial Information (BOSSI) identification number, stating that all survey marks shown on the Deposited Plan as referring to, or being connected to, the boundaries of the subject land remain in place at the completion of development works.

- 5 Where a Surveyor-General's Approval for Survey Mark Removal has been granted by NSW Spatial Services, documentary evidence of restoration of the removed survey marker must be prepared by a Registered Surveyor and submitted to the appointed certifying authority and the Council **prior to the issue of a Subdivision Certificate**.

The documentary evidence is to consist of a letter Signed by a Registered Land Surveyor confirming that all requirements requested under the Surveyor-General's Approval for Survey Mark Removal under condition "Survey Infrastructure – Identification and Recovery" have been complied with.

- 6 **Prior to the issue of a Subdivision Works Certificate**, the Certifying Authority is required to ensure approval has been granted through Sydney Water's online 'Tap In' program to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met.

Note: Please refer to the web site <http://www.sydneywater.com.au/tapin/index.htm> for details on the process or telephone 13 20 92

- 7 The approved General Terms of Approval issued by the Department of Planning and Environment-Water do not constitute an approval under the Water Management Act 2000. The development consent holder must apply to the department for a Controlled Activity approval after consent has been issued and before the commencement of any work or activity.
- 8 An Aboriginal Heritage Impact Permit for the works must be sought and granted prior to the commencement of works as per the General Terms of Approval issued by the Department of Climate Change, Energy, the Environment and Water (Heritage NSW) dated 15 August 2024.
- 9 The recommendations within the approved Bushfire Assessment prepared by Peterson Bushfire and dated 7 May 2024 shall be adhered to for the development and noted for future development.
- 10 The recommendations specified within the Aboriginal Cultural Heritage Assessment prepared by EMM and dated 4 April 2024 shall be adhered to for the development.
- 11 The development shall ensure the following conditions within the Water NSW response to the application dated 21 June 2024 are adhered to:
 - the controls contained within WaterNSW's 'Guidelines for Development Adjacent to the Upper Canal and Warragamba Pipelines' must be applied.
 - 24 hour all weather access to the WaterNSW Pipelines corridor shall be retained or provided for WaterNSW staff and contractors.
 - the applicant shall implement all practical measures to prevent damage to WaterNSW water supply infrastructure that may result from construction or operation of the project.
 - erosion and sediment controls are to be designed, installed and maintained in accordance with the Blue Book, Landcom (2004) Managing Urban Stormwater: Soils and Construction.
 - effective erosion and sediment controls shall be installed prior to any construction commencing and shall prevent sediment or polluted water leaving the site.
- 12 The development shall ensure the requirements of TransGrid Conditional Approval dated 27 February 2025 (which forms part of the stamped approved documents) are adhered to.
- 13 The recommendations within the Salinity Management Plan prepared by Construction Sciences and dated 29 January 2021 are required to be incorporated to the development.
- 14 The recommendations within the Supplementary Geotechnical and Salinity Investigation prepared by DRM and dated 19 December 2024 are to be incorporated into the development **prior to commencement of works and at the completion of works.**
- 15 The approved site levels within Pad 7 that adjoin Patons Lane could be subject to change considering Patons Lane upgrade works are required via Voluntary Planning Agreement obligations.
- 16 The approved indicative Irrigation Plans do not constitute approval for on-site sewage treated water irrigation as these works are subject to a separate Development Application.

- 17 The recommendations specified within the Groundwater Impact Assessment prepared by Ecological and dated 22 November 2024 shall be adhered to for the development both **prior to the commencement of works and during works**.
- 18 The recommendations of the Geotechnical Investigation prepared by Construction Sciences and dated 10 June 2020 shall be incorporated into the development.
- 19 **Prior to the commencement of works**, the recommendations within the Geotechnical Investigation prepared by DRM and dated 24 April 2024 shall be implemented or measures in place to ensure the implementation.
- 20 The private utility service reticulations (sewage and recycled water) which run parallel with the Collector Road shall be grouped together to ensure adequate deep soil zones are provided for future landscaped setbacks.
- 21 **Prior to the issue of a Subdivision Works Certificate**, updated plans for the irrigation system and landscaping areas are required. The plans need to align with Civil plans and access track in the TransGrid easement. The plans need to ensure consistency with the landscape, civil and irrigation plans. The irrigation area must be provided in accordance with the commitments made in the approved Civil Report. The landscape plans also need to be updated to ensure that the stormwater storage pond can operate as per the stormwater scheme's requirements. The updated plans need to be submitted to the Certifier for approval.
- 22 The Applicant must ensure any stormwater that is harvested for reuse is first treated and disinfected in accordance with Australian Guidelines for Water Recycling: Managing Health and Environmental Risks: Stormwater harvesting and reuse (NRMCA, EPHC and NHMRC 2009).

Heritage/Archaeological relics

- 23 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

- 24 Site remediation works shall be carried out generally in accordance with the approved '*Remedial Action Plan Central & NW Portions of Outer Sydney Orbital 221-227 and 289-311 Luddenham Road, Orchard Hills, NSW*' (Ref: *DRM P23.1039.V12-R02r1*) prepared by *Development Risk Management Pty Ltd* and dated 1 October 2024, as well as the National Environment Protection (Assessment of Site Contamination) Measure 1999 [NEPC2013], applicable NSW Environment Protection Authority Guidelines and the Penrith Development Control Plan.

An appropriately qualified person/s shall supervise the remediation works.

On completion of the site remediation works, the following documentation is to be submitted for approval to the Principal Certifying Authority and Penrith City Council, if Council is not the Principal Certifying Authority:

- Written notification that the site remediation works have been completed is to be submitted **within 30 days of the said works having been completed.**

A Validation Report, prepared by an appropriately qualified person, is to be submitted for approval to the Principal Certifying Authority and Penrith City Council, if Council is not the Principal Certifying Authority:

- within 60 days of the said works having been completed, and
- before any work, other than remediation and validation work, can commence on the Outer Sydney Orbital portion of the site.

The Validation Report shall certify that the remediation works have been carried out in accordance with the approved Remedial Action Plan, the National Environment Protection (Assessment of Site Contamination) Measure 1999 [NEPC2013], relevant NSW Environment Protection Authority Guidelines and the Penrith Development Control Plan.

For the purpose of this condition 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, eco-toxicology, 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."

- 25 Fill importation is to be carried out generally in accordance with the approved *'Proposed Industrial Development Bulk Fill Import Protocol'* (Ref: 10791EV.P.68-R10) prepared by Construction Sciences and dated 25 February 2021.

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.

For the purpose of this condition 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, eco-toxicology, 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."

- 26 All waste materials resultant of the proposed works that are to be 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 are to be fully enclosed when the site is unattended.

- 27 Waste materials are to be classified and disposed of at a lawful waste facility.

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.

- 28 **Prior to the issue of the Subdivision Works Certificate**, a Construction Environmental Management Plan (CEMP) is to be prepared by a suitably experienced / qualified person and submitted to Penrith City Council for approval. If Council is not the certifying authority, a copy of Council's approval is to be provided to the Principal Certifier. The CEMP is to address the environmental aspects of the development and is to include details on the environmental management practices and controls to be implemented on the site.

The CEMP is to address, but is not limited to, the following:

- management roles, responsibilities and contact information
- implementation and monitoring of environmental management controls
- noise and vibration control and hours of work,
- waste management (including solid and liquid waste),
- air quality and dust management in accordance with the recommendations of the '*Construction Air Quality Impact Assessment (v2)*' prepared by EMM and dated 6 July 2023
- pollution incident and response
- community communications and complaints response protocol

All earthworks and construction activities on the site are to be implemented and carried out in accordance with the approved CEMP.

- 29 **Prior to the issue of the Subdivision Certificate**, a positive covenant is to be registered against each new land title/Lot that refers to the 'Noise Impact Assessment (Ref: E230918 RP2 version 3)' prepared by EMM and dated 20 February 2025 (the EMM Report).

The covenant is also to:

- reference 'Appendix A Individual Lot Contributions' of the EMM Report,
- provide advice on the requirement to prepare a Noise Impact Assessment Report (prepared by a suitably qualified acoustic consultant) to determine the design and construction measures required to minimize noise impacts from future development (built form and operational activities),
- provide advice that Development Applications submitted to Penrith City Council for development of individual Lots are to include a Noise Impact Assessment Report (prepared by a suitably qualified acoustic consultant) demonstrating an ability to achieve the noise criteria established within the EMM Report. Where a proposed development exceeds the individual lot contribution detailed in Appendix A of the EMM Report, a Cumulative Noise Impact Assessment is required to be submitted with the Development Application, that provides an updated review of the EMM Report, in accordance with the NSW EPA Noise Policy for Industry, and that assesses and justifies the proposed exceedance in consideration of the cumulative impact of development of the Alspeck Industrial Business Park as a whole.

The authority recorded as empowered to vary, modify or extinguish the positive covenant is to be Penrith City Council.

- 30 Should any "unexpected finds" occur during site excavation and earthworks including, but not limited to, the identification/finding of contaminated soils, buried building materials, asbestos, odour and/or staining, Penrith City Council is to be notified. Any such "unexpected finds" shall be addressed by an appropriately qualified environmental consultant in accordance with the '*Bulk Earthworks Phase Unexpected Finds of Contamination in Soil Management Protocol*' (Document Ref: 10791EV.P.68-R09) Prepared by Construction Sciences and dated 15/03/2021.

- 31 Dust suppression techniques are to be employed during all works to reduce any potential nuisances to surrounding properties.
- 32 All works that involve the use of heavy vehicles, heavy machinery and other equipment likely to cause offence to adjoining properties, are restricted to the following hours in accordance with the NSW Department of Environment and Climate Change's "Interim Construction Noise Guideline" 2009:
- 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.

In the event that the work relates to activities that does not involve the interim use of equipment that emits offensive noise, then the works are not restricted to the hours stated above. The provisions of the Protection of the Environment Operations Act, 1997 in regulating offensive noise also apply to all works.

- 33 Mud and soil from vehicular movements to and from the site during earthworks, must not be deposited on the road.
- 34 Until remediation and validation of the Outer Sydney Orbital (OSO) area of the site has been completed in accordance with:
- the approved '*Remedial Action Plan Central & NW Portions of Outer Sydney Orbital 221-227 and 289-311 Luddenham Road, Orchard Hills, NSW*' (Ref: DRM P23.1039.V12-R02r1) prepared by Development Risk Management Pty Ltd and dated 1 October 2024, and
 - the conditions of this consent

the OSO is to be managed to ensure identified contamination is contained, and to ensure contaminated material located in the OSO area does not migrate or impact other areas of the site.

- 35 Any area that is subject to a Vegetation Management Plan (VMP) shall be managed in accordance with the approved Vegetation Management Plan Version 2.2.1 prepared by EcoPlanning dated 18 October 2024 and Riparian Vegetation Management Plan Version 1.3.1 prepared by EcoPlanning dated 9 September 2024 in perpetuity by the property owner(s).
- 36 **Prior to any works commencing on the site**, a temporary 1.8m high chain-wire fencing fence is to be in place around the extent of the Biodiversity Management Plan areas as shown in Figure 1.1 of the Biodiversity Management plan prepared by EcoPlanning dated 24 September 2024 to restrict accidental clearing or impacts on the native vegetation that is to be protected and retained to restrict the following:
- (a) Stockpiling of materials within the native vegetation to be retained
 - (b) Placement of fill within the native vegetation to be retained
 - (c) Parking of vehicles or machinery in the native vegetation to be retained
 - (d) Compaction of soil or accidental clearing / damage of native vegetation to be retained

Evidence that the temporary fencing has been installed as per the requirements is to be provided to Penrith City Council's Senior Biodiversity Officer for review and approval. Works are not to commence until conformation is received that the fencing has been installed to Council's satisfaction.

- 37 **Within four (4 weeks)** of completion of vegetation clearing and dam dewatering within the development footprint the applicant is to submit a statement prepared by the Ecologist engaged to undertake the management actions outlined in Section 3.1, Section 3.2, Appendix A and Appendix B of the Biodiversity Management Plan prepared by EcoPlanning dated 24 September 2024. The report is to document and summarise the results of the pre-clearance surveys, Kangaroo exclusion fencing, Kangaroo herding, Dam Dewatering and supervision of vegetation clearing.

The report must be submitted to Penrith City Council's Senior Biodiversity Officer. The report must include details such as size and location of the habitat features, and any additional measures required to mitigate the risk to fauna during clearing.

- 38 All performance criteria for the primary works stage / initial works of the Council Approved Vegetation Management Plan Version 2.2.1 prepared by EcoPlanning dated 18 October 2024 and Riparian Vegetation Management Plan Version 1.3.1 prepared by EcoPlanning dated 9 September 2024 (VMP) must be completed to the satisfaction of Penrith City Council **prior to the issue of a Subdivision Certificate**. This includes:

- (a) Salvage of floristic material i.e shrubs and upper branches to be used for brush matting
- (b) Permanent Fencing
- (c) Signage
- (d) Site preparation
- (e) Primary weed control and commence secondary weed control

Permanent fencing details shall be provided to Council for review and approval prior to installation.

A statement (including photographic evidence) certifying compliance with this task is to be provided by the author of the VMP or an equally qualified and experienced person and submitted to Penrith City Council's Biodiversity Team for review and approval.

Note: An inspection of the works may be required by relevant Council's officer(s) to ensure this condition has been satisfied.

- 39 **Prior to the issue of a Subdivision Certificate**, a Restriction as to User and Positive Covenant is required to be registered on the title of the subject site for the protection of existing vegetation identified in the endorsed and approved Vegetation Management Plans.

The terms of the restriction as to user and positive covenant are required to be as follows:

Restriction as to User

No development including vegetation clearing, earthworks or building works are permitted within the area subject of the Vegetation Management Plans (VMPs).

The following activities are also not permitted within the VMP areas:

- a) Damage to native vegetation within the protected area
- b) Plant or introduce non-native vegetation or native vegetation that is not indigenous to the local area within the protected area.
- c) Dump rubbish or materials, deposit of fill or soil, development, erection of structures, or other activities that may damage the vegetation such as grazing of livestock, access by domestic animals, agriculture, removal of woody debris, removal of bush rock, use of vehicles or the further creation or tracks is to occur within the protected area without the prior consent of Penrith City Council.
- d) Remove, ringbark, cut, topped, lopped, or wilfully destroyed the trees.

Positive Covenant

The registered proprietor of the burdened lot must manage the site subject of the VMPs as follows:

- a) In accordance with the Vegetation Management Plan Version 2.2.1 prepared by EcoPlanning dated 18 October 2024 and Riparian Vegetation Management Plan Version 1.3.1 prepared by EcoPlanning dated 9 September 2024. The Council approved Vegetation Management Plan is to be implemented in its entirety.
- b) The vegetation within this area is to be protected and retained in perpetuity.
- c) The vegetation within this area to be retained in a natural state and protected to ameliorate and manage indirect impacts from development.
- d) This area is to be permanently fenced to restrict unnecessary and unauthorised access and activities. A gate may be included to allow access for management and passive activities such as walking. The fence is to be a permanent metal, see through fence made using steel dropper posts and plain wire, be of rural character, allow movement of fauna (wildlife friendly) and is to be maintained in perpetuity.
- e) Priority weeds listed under the NSW Biosecurity Act 2015 or relevant legislation and environmental weeds are to be managed and controlled within this area in accordance with the Council approved Vegetation Management Plan.

- 40 **Prior to the issue of an Subdivision Certificate**, a report prepared by a suitably qualified person verifying that all commitments and harm minimisation measures required during construction outlined in the approved Biodiversity Management Plan prepared by EcoPlanning dated 24 September 2024 have been satisfied and submitted to Penrith Council's Senior Biodiversity Officer.

Utility Services

- 41 All services (water, electricity, telecommunications) 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 Endeavour 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.

- 42 This consent does not approve the use of the sewer and recycled water reticulation pipework for the purposes of private sewage management and treatment. It is noted that the use of the private pipework is subject to a separate Development Application.

In accordance with Sydney Water's Advice dated 27 June 2024, the wastewater infrastructure shall be sized and configured to the WSAA code requirements. The development shall be future proofed to enable recycled water from public or private supply.

- 43 The indicative pump station is not endorsed for the use of pumping wastewater via this consent considering the use of this system is subject to a separate Development Application. The pump station shall be provided with detailed plans for approval by Council **prior to the issue of a Subdivision Works Certificate**. The pump station detail shall minimise hardstand and visual impact and ensure future development can provide adequate landscaping.

Construction

- 44 Stamped plans, specifications, a copy of the development consent, the Subdivision Works Certificate and any other Certificates to be relied upon shall be available on site at all times during construction.

The following details are to be displayed in a maximum of 2 signs to be erected on the site:

- the name of the Principal Certifying Authority, their address and telephone number,
- the name of the person in charge of the work site and telephone number at which that person may be contacted during work hours,
- that unauthorised entry to the work site is prohibited,
- the designated waste storage area must be covered when the site is unattended, and
- all sediment and erosion control measures shall be fully maintained until completion of the construction phase.

Signage but no more than 2 signs stating the above details is to be erected:

- at the commencement of, and for the full length of the, construction works onsite, and
- in a prominent position on the work site and in a manner that can be easily read by pedestrian traffic.

All construction signage is to be removed at the completion of works.

45 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.

Engineering

46 All roadworks, stormwater drainage works, signage, line marking, associated civil works and dedications required to effect the consented development shall be undertaken by the applicant at no cost to Penrith City Council.

47 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**. 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 (02) 4732 7777 or visit Penrith City Council's website for more information.

- 48 Lodgment of relevant Section 138 Roads Act applications, including payment of application and Council fees together with any applicable bonds, shall be lodged with and approved by Penrith City Council (being the Roads Authority for any works required in a public road).

You are required to lodge the applicable Section 138 Roads Act application for the below works that apply to your specific development prior to that work activity commencing. Please liaise with your builder to determine what applications are required for your development.

These works may include but are not limited to the following:

- a) Construction of driveways (including kerb reinstatement of redundant driveway crossings and reconstruction of any affected footpaths and/or cycleways)
- b) Temporary road reserve occupancies
- c) Road reserve openings for the installation of:
 - i. Utilities (water, sewer, power, telecommunications)
 - ii. Private stormwater connections to the kerb (including stormwater connection to Penrith City Council owned drainage)
 - iii. Reconstruction of concrete footpath and/or cycleways across the frontage
- d) Establishment of a construction work zone
- e) Establishment of road reserve hoardings and temporary structures/fencing etc.
- f) Operation of a tower crane over the road reserve

All works shall be carried out in accordance with the Roads Act Approval and the conditions outlined in the Roads Act Applications, the development consent, including the stamped approved plans, and Penrith City Council's Driveway and Road Reserve Restoration Works Specification, guidelines and engineering best practice.

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

Note:

- All works associated with the Roads Act approval(s) must be completed prior to the issue of any Subdivision Certificate as applicable.

- 49 A Subdivision Works Certificate is to be approved by the Certifier for the provision of any subdivision works (road, drainage, earthworks).

Prior to the issue of any Subdivision Works Certificate, the Certifier shall ensure that engineering plans are consistent with the stamped approved plan/s prepared by Henry & Hymas, reference number 19221_D2_C000 to 19221_D2_BE01, 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
- Stormwater management (quantity and quality)
- Inter-allotment 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 Subdivision Works Certificate must be supported by engineering plans, calculations, specifications and any certification relied upon.

Note:

- Subdivision Works Certificates are now lodged via the NSW Planning Portal. Further information on the lodgement process can be found on the NSW Planning Portal website. Council's Development Engineering Department can provide this service and can be contacted on 4732 7777 to obtain a formal fee proposal prior to lodgement on the portal or if you require any assistance with the lodgement process.

- 50 **Prior to the issue of any Subdivision Works Certificate**, the Certifier 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 No.	Road Reserve Width	Carriageway Width	Verge Width	Footpath (min. 1.5m wide)	ESA
Collector	25.6 metres	15.4 metres	5.6m (west) & 4.6m (east)	3.1m (west) & 2.1m (east)	1x10 ⁷

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

- 51 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 Subdivision Works Certificate or Roads Act application.

Prior to the issue of the Subdivision Works Certificate or Section 138 Roads Act approval, the Certifier 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 Certifier for information purposes.

- 52 The stormwater management system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by Henry and Hymas, project number 19221, Drawing numbers D2_C000 - BE01, Issue 7, dated 12/02/2025 (as identified in the stamped approved plans), and commitments made in the amended Integrated Water Cycle Management Report, prepared by Henry and Hymas, project number 19221, Issue 6, dated September 2024.

Engineering plans and supporting calculations are to be prepared by a suitably qualified engineer and shall accompany the application for a Subdivision Works Certificate.

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

- 53 **Prior to the issue of any Subdivision Works Certificate**, the Certifier shall ensure that the proposed development is compatible with the recommendations of the Flood Report prepared by Arcadis, reference number 30088823-EF-002, revision 03, dated 30/8/24.

- 54 **Prior to the issue of any Subdivision Works Certificate**, the Certifier shall ensure that vehicular access, circulation, manoeuvring, pedestrian and parking areas associated with the subject development are in accordance with Penrith Development Control Plan 2014, AS2890.1, AS2890.2 and AS2890.6.

- 55 **Prior to the commencement of any works on-site (including demolition works)**, a Construction Traffic Management Plan (CTMP) shall be submitted to Penrith City Council's Asset Management Department for endorsement. The CTMP shall be prepared by a suitably qualified consultant with appropriate training and certification from Transport for NSW. 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 Asset Management Department on 4732 7777 and refer to Council's website for a copy of the Temporary Road Reserve Occupancy Application Form.

56 The developer shall undertake a dilapidation report for all surrounding buildings and Council owned infrastructure that confirms that no damage occurs due to the excavations associated with the development. If Council is not the Certifier for the development then the dilapidation report shall be submitted to Council **prior to the issue of any Subdivision Works Certificate** and then updated and submitted **prior to the issue of any Subdivision Certificate** confirming no damage has occurred.

57 **Prior to commencement of any works** associated with the development, sediment and erosion control measures shall be installed in accordance with the approved Subdivision Works 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.

58 **Prior to commencement of any works** associated with the development, a Traffic Guidance Scheme, including details for pedestrian management, shall be prepared in accordance with AS1742.3 Traffic Control Devices for Works on Roads and the Transport for NSW (TfNSW) publication Traffic Control at Worksites Technical Manual, and certified by an appropriately accredited TfNSW 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 copy of the Traffic Guidance Scheme shall accompany the Notice of Commencement to Penrith City Council.
- 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 any Subdivision Works Certificate**.

59 Work on the subdivision shall not commence until:

- a Subdivision Works Certificate (if required) has been issued;
- a 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.

60 Street lighting is to be provided for all new and existing roads within the proposed subdivision to Penrith City Council's standards.

- 61 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 Certifier.

- 62 Upon completion of all works in the road reserve, all verge areas fronting 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.

- 63 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.

- 64 **Prior to the issue of any Subdivision Certificate**, the Principal Certifier shall ensure that all works associated with a S138 Roads Act approval and/or S68 Local Government Act approval have been inspected and signed off by Penrith City Council.

- 65 **Prior to the issue of any Subdivision Certificate**, the Principal Certifier 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.

- 66 **Prior to the issue of a Subdivision Certificate**, works-as-executed drawings, final operation and maintenance management plans and any other compliance documentation shall be submitted to the Principal Certifying Authority in accordance with Penrith City Council's Engineering Construction Specification for Civil Works, WSUD Technical Guidelines and Stormwater Drainage for Building Developments.

An original set of works-as-executed drawings and copies of the final operation and maintenance management plans and compliance documentation shall also be submitted to Penrith City Council with notification of the issue of the Subdivision Certificate where Council is not the Principal Certifying Authority.

67 **Prior to the issue of any Subdivision Certificate**, the Principal Certifier shall ensure that the:

- a) Stormwater management systems (including on-site detention and water sensitive urban design)
 - b) Flood control works
- have been satisfactorily completed in accordance with the approved Subdivision Works Certificate and the requirements of this consent;
 - have met the design intent with regard to any construction variations to the approved design, and;
 - Any remedial works required to be undertaken have been satisfactorily completed.

Details of the approved and constructed system/s shall be provided as part of the Works As Executed drawings.

68 **Prior to the issue of any Subdivision Certificate**, a restriction on the use of land and positive covenant relating to the:

- a) Stormwater management systems (including on-site detention and water sensitive urban design)
- b) Flood control works

shall be registered on the title of the property. The restriction on the use of land and positive covenant shall be in Penrith City Council's standard wording as detailed in Council's Stormwater Specification for Building Developments - Appendix F.

69 **Prior to the issue of any Subdivision Certificate and installation of regulatory/advisory signage and line marking**, plans are to be lodged with Penrith City Council and approved by the Local Traffic Committee.

Notes:

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

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

The proposed names must be in accordance with NSW Address Policy and User Manual by Geographical Names Board.

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.

71 **Prior to the issue of any Subdivision Certificate**, the following compliance documentation shall be submitted to the Principal Certifier. A copy of the following documentation shall be provided to Penrith City Council where Penrith City Council is not the Principal Certifier:

- 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 0.3m intervals. All levels are to be shown to AHD.
- d) CCTV footage in USB format to Penrith City Council's requirements and a report in "SEWRAT" format for all drainage identified as Council's future assets. Any damage that is identified is to be rectified in consultation with Penrith City Council.
- e) 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.
- f) Documentation for all road pavement materials used demonstrating compliance with Penrith City Council's Engineering Construction Specification for Civil Works.
- g) 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 Specification. The report shall include:
 - Compaction reports for road pavement construction.
 - Compaction reports for bulk earthworks and lot regarding.
 - Soil classification for all lots.
 - Statement of Compliance.
- h) Structural Engineer's construction certification of all structures.
- i) A slope junction plan for inter-allotment drainage lines indicating distances to boundaries and depths.
- j) Soil testing for each lot to be classified according to AS2870 Residential Slabs and Footings.

72 **Prior to the issue of any Subdivision Certificate**, the following easements shall be created on the plan of subdivision:

- a) Easements for drainage,
- b) Easements for access,
- c) Any other easements identified during the construction process.

- 73 The stormwater management and treatment system shall continue to be operated and maintained in perpetuity for the life of the development 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 and treatment systems.

- 74 **Prior to the issue of a Subdivision Works Certificate**, updated Comprehensive Operation and Maintenance Manuals for all elements of the stormwater management measures needs to be submitted to Council's Natural Systems Team Leader for approval.

The plan should include details on the following:

- i. Water quality monitoring procedures and frequency
- ii. Locations, types and descriptions of treatment measures and associated infrastructure proposed
- iii. Operation and maintenance responsibility
- iv. Inspection methods (including inspection checklists)
- v. Maintenance methods (frequency, equipment and personnel requirements)
- vi. Landscape and weed control requirements
- vii. Details on routine hydraulic conductivity testing to ensure bioretention systems filter is achieving design infiltration.
- viii. Details on water reuse and irrigation rates to ensure continuing to comply with commitments made in Stormwater strategy for the development. This should include full details of monitoring and reporting re-usage rates, and
- ix. Operation and maintenance Reporting requirements

Note: Quarterly reports on the non-potable water usage, irrigation rates and effectiveness of the stormwater treatment measures must be submitted to Council Natural Systems Team in perpetuity. Any issues and non-compliances will need to be rectified immediately.

- 75 **Prior to the issue of a Subdivision Works Certificate**, a chartered professional engineer (CPEng) (Civil / Environmental) who has membership to Engineers Australia must provide evidence to the certifier that the stormwater harvesting system design is fit for purpose.

This evidence must include the intended use of the treated stormwater, evidence that the treated stormwater can meet the standard water quality criteria for that use, details of the system arrangement (including size and configuration of UV lamps as required), design flow rate, and an operation and maintenance plan.

An irrigation specialist is to be engaged to prepare the detailed design for the non-potable water supply and irrigation plan. The irrigation plan must achieve a minimum average usage rate outlined in the Integrated Water Cycle Management Report, prepared by Henry and Hymas, project number 19221, Issue 6, dated September 2024.

76 Works cannot commence until an updated Sediment and Erosion Control Report and Plans are prepared and submitted to the Certifier for approval. The plans must include use of Type A or B sediment basins with an automated system of flocculant dosing, and as per the requirements of the Technical guidance for achieving Wianamatta–South Creek stormwater management targets (DPE 2002).

- Civil Plans, prepared by Henry and Hymas, project number 19221, Drawing numbers D2_C000 - BE01, Issue 7, dated 12/02/2025
- Amended Integrated Water Cycle Management Report, prepared by Henry and Hymas, project number 19221, Issue 6, dated September 2024

The Applicant must ensure the delivery and operation of all construction phase erosion and sediment controls on the site is supervised and certified by a CPESC. Monthly audits are to be completed by CPESC and kept on record for the duration of the works and an additional 12 months following completion of works.

77 **Prior to the issue of an Subdivision Works Certificate**, the applicant shall prepare a Construction Pedestrian and Traffic Management Plan (CPTMP) in consultation with Transport for New South Wales. The CPTMP needs to specify matters including, but not limited to, the following:

- To mitigate the impact of construction traffic and reduce interaction with other projects, all access to the site shall be provided from Patons Lane via the intersection of Luddenham Road.
- Patons Lane is to always remain open to traffic.
- Proposed haulage routes and construction vehicle access arrangements.
- Predicted number of construction vehicle movements, detail of vehicle types and demonstrate that proposed construction vehicle movements can be accommodated within the context of road changes in the surrounding area.
- Identify any potential impacts to general traffic, cyclists, pedestrians, and bus services within the vicinity of the site from construction vehicles during the construction of the proposed works.;
- Identify the cumulative construction activities of the development and other projects within or around the development site.
- Proposed measures to minimise the cumulative impacts on the surrounding road network should be clearly identified and included in the CPTMP.
- Construction program and construction methodology, including any construction staging.
- Consultation strategy for liaison with surrounding stakeholders, including Sydney Metro and other developments under construction.
- Details of crane arrangements including location of any crane(s) and crane movement plan.
- Proposed construction hours.
- A detailed plan of any proposed hoarding and/or scaffolding.
- Provide the direct contact details to businesses and residents impacted by the construction work and TfNSW via development.ctmp.cjp@transport.nsw.gov.au to resolve issues during construction in real time. The applicant is responsible for ensuring the builder's direct contact number is current during any stage of construction; and

Submit a copy of the final plan to TfNSW for endorsement via development.ctmp.cjp@transport.nsw.gov.au.

78 The development is to comply with the following conditions recommended by Sydney Metro correspondence dated 21 February 2025.

Prior to the issue of a Subdivision Works Certificate the applicant shall prepare a Construction Traffic Management Plan (CTMP) in consultation and to the satisfaction of Transport for NSW and Sydney Metro. The CTMP will need to incorporate the following considerations:

- The updated traffic surveys and intersection assessment at Patons Lane and Luddenham Road.
- Vehicular traffic generated during the construction stage shall not be permitted to enter and exit via Patons Lane and Luddenham Road intersection during the Sydney Metro's peak construction hours, which are between 7:30am and 8:30am, and 4:30pm and 5:30pm weekdays. The Applicant to consider using the AIBP site's southern access point for access and egress of all light and heavy vehicles during peak periods.
- For periods outside of the construction peak hours, reverting to the one-way loop arrangement, that is, enter via Patons Lane and exit via southern access off Luddenham Road. Alternatively, a traffic controller be engaged by the application to be positioned at Patons Lane and Luddenham Road intersection to monitor and manage vehicles queuing, which will enable the construction vehicles to enter and exit via Patons Lane during the off-peak construction periods.
- Traffic controllers are to ensure that Sydney Metro construction traffic be given priority access to Patons Lane to minimise disruptions for Sydney Metro's construction activities and deliveries, and if required, traffic controllers must divert any Alspec Industrial Business Park (AIBP) construction vehicles to access the site via the existing driveway on Luddenham Road.
- Patons Lane access must be maintained at all times to not impede on Sydney Metro's construction activities.
- Traffic surveys on Patons Lane are to be undertaken on a regular basis to monitor AIBP contribution to the traffic on the surrounding road network throughout the construction period. A copy of the traffic survey data shall be provided to Sydney Metro.

Prior to the commencement of any works, appropriate fencing must be in place along the boundary that adjoins the rail corridor to prevent unauthorised access to the rail corridor during construction works. Details of the type of fencing and the method of erection are to be to the satisfaction of Sydney Metro prior to the fencing work being undertaken.

The development shall have appropriate fencing fit for the future usage of the development site to prevent unauthorised access to the rail corridor by future occupants of the development. **Prior to the issue of a Subdivision Certificate**, the Applicant shall liaise with Sydney Metro regarding the adequacy of any existing fencing along the rail corridor boundary or the need for the design and erection of new fencing. Details of the type of new fencing to be installed and the method of erection are to be to the satisfaction of Sydney Metro prior to the fencing work being undertaken. Council shall also be consulted and satisfied of the required fencing.

79 **Prior to issue of a Subdivision Works Certificate**, the Certifier shall ensure that the basins are designed appropriately for the catchment area draining to each of the basins.

- 80 **Prior to the issue of a Subdivision Certificate**, it shall be ensured that any private pipe infrastructure that is required to cross a public road to service properties is subject to an accepted formal maintenance agreement entered into with Council.

Landscaping

- 81 All landscape works are to be constructed in accordance with the stamped approved plans and 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.

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

A Subdivision Certificate should not be issued until such time as a satisfactory Implementation Report has been received and endorsed. 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.

- 83 All plant material associated with the construction of approved landscaping is to be planted in accordance with Penrith Development Control Plan 2014.

- 84 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.

- 85 No trees are to be removed, ring barked, 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 Chapter C2 – Vegetation Management of Penrith Development Control Plan 2014.

- 86 Tree removal endorsed by this consent shall be conducted in accordance with the recommendations of the approved Biodiversity Management Plan prepared by Ecoplaning and dated 24 September 2024 and Arboricultural Impact Assessment & Tree Protection Plan prepared by Tree Survey and dated 17 December 2024.

- 87 **Prior to the issue of a Subdivision Works Certificate**, it shall be demonstrated that groundcover plantings within the stormwater storage basins (below water level) will not impact the stormwater capacity requirements or ongoing operation of the storage basin systems. Should the plantings within the basin (below water level) impact the intent of the storage basin (as above) the groundcovers below the top water level can be removed with groundcovers remaining within the battered areas above the water level.

Subdivision

- 88 **Prior to the issue of any Subdivision Certificate**, the following is to be submitted:

An original plan of the Community Title subdivision and associated administration sheets. The plan of Community Title subdivision must indicate, where relevant:

- All drainage easements, rights of way, restrictions and covenants.

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 by completing the Street Address Confirmation Application Form found on Council's website. Instructions for completion and submission are outlined on the form.

- 89 The Collector Road is to remain under private ownership of the landowner and not be dedicated as public road until the Patons Lane and Luddenham Road roadworks under the Voluntary Planning Agreement (VPA) have been delivered (subject to a separate application for approval). It is noted these works are required to be delivered prior to the issue of an Occupation Certificate as per the VPA.

Once the VPA obligations relative to the Patons Lane and Luddenham Road works are delivered, and Council has undertaken a final inspection of the completed roadworks for the Collector Road, and is satisfied with the completed works, in accordance with Council's Engineering Construction Specification for Civil Works, the Collector Road shall be dedicated as a public road to Council. This will require the removal of Lot 8 from the Community Title Association Plan for the purpose of dedicating the road to Council as a public road and the extinguishing of certain easements.

- 90 Should the Collector Road remain in private ownership, then **prior to the issue of a Subdivision Certificate**, a right of carriageway easement shall be created over the Collector Road to ensure access to the lots.

91 **Prior to the issue of a Subdivision Certificate**, the linen plan shall be accompanied by an 88B instrument creating a Restriction on the use of the land, applicable to all lots, for the following purpose.

(1) No wastewater generating development shall be permitted on the lot/s until the following has been satisfied:

- An agreed arrangement for sewerage services is available,
- The required easements, covenants and restrictions have been imposed on the lots (both the benefitting and burdened lots) relying on the agreed sewerage service, and
- The Community Title Association Management Scheme is in place to address the ongoing maintenance and responsibility for the agreed sewerage management arrangement/system.

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

92 **Prior to the issue of a Subdivision Certificate**, the linen plan shall be accompanied by an 88B instrument creating a Restriction on the use of the land, applicable to Community Title Lots 2, 3, 4, 5, and 7, for the following purpose.

(1) No development, except for bulk earthworks, dam dewatering, approved vegetation removal, remediation, and road works shall be permitted on the lot/s unless it is demonstrated to the satisfaction of Penrith City Council, that the subdivision yield for each burdened allotment is compliant with Clause 7.24(2)(a) of the Penrith Local Environmental Plan 2020.

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

93 **Prior to the release of the Subdivision Certificate**, the Community Title subdivision is to be accompanied by the required and relevant Community Title Association Scheme.

The Community Title Association Management Scheme is to include (but not be limited to) addressing:

- The ongoing maintenance and responsibility for the agreed sewerage management arrangement/system, and
- The ongoing maintenance regime to maintain and repair private basins located within Lot 6 (and any other relevant lots).

Development Contributions

94 This condition is imposed in accordance with Penrith City Council's Section 7.12 Contributions Plan for Non-Residential Development. Based on the current rates applicable to contributions payable under this plan, **\$401,618.23 is to be paid to Council prior to issue of a Subdivision Certificate** being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 7.12 Contributions plan.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The Section 7.12 Contributions Plan for Non-Residential Development is available on Council's website.

- 95 **Prior to the issue of a Subdivision Certificate**, a compliance matrix / statement is to be submitted to and endorsed by Councils City Planning – Contributions Officers that outlines the relevant infrastructure, contributions payable or commitments to be delivered in accordance with the registered or applicable Planning Agreement. It must be demonstrated that the applicable commitments have been satisfied **prior to the issue of a Subdivision Certificate**.

Certification

- 96 A Subdivision Certificate is to be obtained prior to the release of the final plan of subdivision. The Subdivision Certificate will not be issued if any of the conditions in this consent are outstanding.
- 97 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 Subdivision Works Certificate issued for the approved development, and with the relevant provisions of the Environmental Planning and Assessment Act 1979, 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 6.6 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 of site vegetation), the proponent shall submit a "Notice of Commencement" to Council in accordance with Section 6.6 of the Environmental Planning and Assessment Act 1979.

Appendix - Development Control Plan Compliance

Development Control Plan 2014

E18 Luddenham Road Industrial Business Park

This Chapter of Penrith Development Control Plan 2014 (DCP) applies specifically to the site and surrounding land subject of the rezoning discussed earlier within this report. The purpose of this Chapter is to provide specific development controls to the Luddenham Road Industrial Business Park (also known as Alspeck Industrial Business Park).

Building Setbacks

The DCP includes building setback provisions. The proposal does not include any built form but rather includes bulk earthworks and required infrastructure to service future industrial built forms. However, the application has been accompanied by an indicative masterplan showing how built forms will be provided on-site. The masterplan includes setback overlays demonstrating the development has considered the ability to provide complying development.

Landscape Setbacks

The DCP includes landscape setback provisions with emphasis on the frontage to Luddenham Road from the ultimate widened road boundary. The earthworks proposed include batters from the lower Luddenham Road widening area to the adjoining proposed pad level. The applicant has specified the batter will be landscaped at the time of adjoining industrial development/intersection development. At the time of writing this report the SSD site (located within the north-eastern corner of the site) identifies the Luddenham Road setback as being embellished with landscaping. In this regard, embellishing the batters/mound with landscaping timed with the adjoining industrial development is considered suitable.

The application has provided generous street tree planting with pot sizes and mature heights that correspond with the available soil volume noting the 2.5m verge allocation in the Collector Road. The proposal includes plantings within the bio-retention systems to assist with quality treatment measures and hydromulching of stormwater irrigation areas within the north-western corner of the site to assist evaporation. The proposal has also been updated to include the embellishment of the storage basins to assist with maximising landscaping on-site and contributing to the landscaped outlook from Luddenham Road to the development site. The plantings within the storage basins is restricted to groundcovers noting canopy plantings nearby a water source would comprise wildlife safeguarding provisions.

The landscape plans accompanying the proposal specify the retaining wall within the curve of the Collector Road will be treated with sandstone logs and groundcover/shrub plantings within the tier providing an acceptable visual outcome noting the cumulative 2.3m height of the retaining wall.

The landscaping provisions state the Outer Sydney Orbital needs to be provided with a 5m landscaped setback. The location of the stormwater easement at the rear of Pads 4a and 4b will not hinder the ability to provide the 5m landscaped setback as the swale will be piped and located under hardstand as part of future development (as shown within plans for DA24/0330 - being a Development Application for a warehouse on the mentioned land).

Strategic Conservation Area and Avoided Lands

The provisions within this section have previously been addressed within this report noting the submission of Vegetation Management Plans for these areas and endorsement from Council's Biodiversity Team.

Noise Pollution

As mentioned earlier within this report, the proposal has been accompanied by a Cumulative Noise Impact Assessment which can be used to guide development and design within the estate to ensure noise criteria is achieved and suitable noise amenity is provided to surrounding receivers.

Road Network and Site Access

The plans identify the required 40m setback from Luddenham Road to allow for future widening.

The applicant has stated that intersection works with Luddenham Road, Patons Lane upgrades and intersection between Patons Lane and access estate road will be forthcoming via separate development applications. This arrangement is considered acceptable as these upgrade works will be required to facilitate operational vehicles as per timing of delivery provisions within the Voluntary Planning Agreement. It is noted that the proposal will not generate any operational vehicles as no industrial development for operational purposes is proposed at this stage.

The proposal includes the construction of the Collector Road (site access road) and a driveway to service the TransGrid easement and bio-retention/storage basin for the north-western catchment. It is noted on the Road Hierarchy Plan that the driveway is identified as a road however, considering the driveway will service the easement and stormwater management infrastructure a driveway is considered acceptable in this instance noting the 6m width. In addition, Council's Development Engineering and Traffic Engineering Teams are supportive of this arrangement.

The Collector Road complies with the road typology requirements specified within the DCP. It is noted that the Collector Road does not include any mid blocks at this stage as connections to intersections are not proposed and will be subject to forthcoming applications which include the Patons Lane and Collector Road and Collector Road and southern Luddenham Road intersections. As such, at this stage, the Collector Road terminates slightly south of the future round-a-about intersection and includes a cul-de-sac as an interim arrangement.

As mentioned previously within this report, the applicant has provided draft civil plans for the future intersection to the north, giving Council an understanding of how future development ties in to the proposal.

Integrated Water Cycle Management

The proposal has been accompanied by a Water Cycle Management report which has demonstrated adequate consideration and action of the provisions within this section as mentioned earlier within this report under the title "State Environmental Planning Policy (Biodiversity and Conservation) 2021". It is noted that the stormwater management infrastructure will remain in the ownership of the developer and each piece of stormwater management infrastructure (bio-retention and storage basins) is located on a proposed lot which will be used for industrial purposes.

Flood Prone Land

The application has been accompanied by a Flood Impact Assessment which has been reviewed and supported by Council's Flood Engineering Team. The flood mitigation works and considerations have been discussed previously within this report under the title "Clause 5.21 Flood planning".