

SWCPP Ref. No.:	PPSSWC-488
DA No.:	DA24/0009
PROPOSED DEVELOPMENT:	Upgrading of a 600m long section of Luddenham Road, new 'interim' signalised 'T-intersection', associated works and Torrens Title Subdivision of 3 Lots into 6 Lots to create 3 'Road Reserve' lots
PROPERTY ADDRESS:	572 a Luddenham Road, LUDDENHAM NSW 2745 546 a Luddenham Road, LUDDENHAM NSW 2745 581 Luddenham Road, LUDDENHAM NSW 2745 599 b Luddenham Road, LUDDENHAM NSW 2745 599 Luddenham Road, LUDDENHAM NSW 2745
PROPERTY DESCRIPTION:	Lot 24 DP 1277418, Lot 26 DP 1277418, Lot 205 DP 1280188, Lot 206 DP 1280188, Lot 204 DP 1280188,
CLASS OF BUILDING:	N/A
ASSESSING OFFICER	Robert Walker
APPLICANT:	Celestino Developments Ssp Pty Ltd
DATE RECEIVED:	10 January 2024
REPORT BY:	Robert Walker, Senior Development Assessment Planner, Penrith City Council
RECOMMENDATIONS:	Approve

Assessment Report

Executive Summary

Council is in receipt of a Development Application, which seeks Development Consent for the upgrading of a 600m long section of Luddenham Road at Luddenham, a new 'interim' signalised 'T-intersection' with Luddenham Road (including a 'stub road', being an initial section of an identified / future 'Sub-Arterial Road' within the 'Sydney Science Park' site), associated works, and Torrens Title Subdivision of 3 Lots into 6 Lots to create 3 'Road Reserve' lots .

The development site comprises of a 600m (approximately) long section of the existing Road Reserve of Luddenham Road at Luddenham and immediately fronting land within five (5) allotments (which includes parts of the broader 'Sydney Science Park' or lots containing sections of the Sydney Metro - Western Sydney Airport corridor). The development site is dissected by (and includes sections of) the corridor for the Sydney Metro - Western Sydney Airport, which is currently under construction, has a total area of approximately 4 hectares.

The site is zoned partly 'Enterprise' and partly 'Mixed Use' pursuant to Chapter 4 ('Western Sydney Aerotropolis') of *State Environmental Planning Policy (Precincts - Western Parkland City) 2021*, and partly 'SP2 - Infrastructure' pursuant to Chapter 4 ('Major Infrastructure Corridors') of *State Environmental Planning Policy (Transport and Infrastructure) 2021*. 'Roads' are permitted with Development Consent in each of these zones.

The application was advertised in a local newspaper and notified to adjacent property owners, and no submissions were received as a result of this process. Furthermore, the application was referred to Transport for NSW, Sydney Metro and Endeavour Energy, and final associated comments did not raise any concerns.

The estimated development cost given for the proposal is more than \$5 million and as Council is (considered to be) the owner of land on which the development is to be carried out (i.e. of the Road Reserve of Luddenham Road), pursuant to Section 2.19 and Schedule 6 of *State Environmental Planning Policy (Planning Systems) 2021*, the proposal is declared to be 'Regionally Significant Development'.

An assessment of the application has been undertaken pursuant to Section 4.15 of the *Environmental Planning and Assessment Act 1979*. Overall, following consideration of key related considerations, including specific provisions of the *Western Sydney Aerotropolis Precinct Plan 2024* (such as in relation to the 'Northern Gateway Precinct' and 'Urban Structure'), protection of the Sydney Metro Western Sydney Airport corridor, civil engineering matters, traffic safety, ecological, biodiversity, waterway quality and construction management.

The proposal provides for the rationalisation of access points to / from Luddenham Road, by facilitating connection to service private developments via future local streets, and it is considered that such is unlikely to provide any significant adverse or unreasonable impacts on the broader area, and is not contrary to the public interest. Having regard to the relevant planning provisions, it is recommended that the application be approved, subject to the recommended conditions.

Site & Surrounds

The development site comprises of a 600m (approximately) long section of the existing Road Reserve of Luddenham Road at Luddenham and immediately fronting land within the following five (5) allotments:

- No. 601 Luddenham Road, formally known as Lot 204 in DP 1280188 (being part of the broader Sydney Science Park);
- No. 599 Luddenham Road, formally known as Lot 206 in DP 1280188 (being part of the broader Sydney Science Park);
- Lot 205 in DP 1280188, which includes a section of the Sydney Metro - Western Sydney Airport corridor;
- Lot 24 in DP 1277418, which includes a section of the Sydney Metro - Western Sydney Airport corridor; and
- Lot 26 in DP 1277418, being a section of the Sydney Metro - Western Sydney Airport corridor.

These allotments were created recently in association with the acquisition of land for the Sydney Metro - Western Sydney Airport corridor.

Luddenham Road is classed as an 'Unclassified Regional Road' (Road No. 7286), which extends from Mamre Road in the north, to Elizabeth Drive in the south, and the development site is located towards the middle section of such. The development site is dissected by (and includes sections of) the corridor for the Sydney Metro - Western Sydney Airport, which is currently under construction, and has a total area of approximately 4 hectares. The site currently contains a two (2) lane road, which has a typical carriageway width of approximately 8m. The northern portion of the site contains the southern extent of a priority controlled intersection providing access to / from the west, and includes a central median, deceleration lane and acceleration lane. There is also a left in - left out only driveway access located within the site, which includes a deceleration lane and an acceleration lane, providing access to / from the east, which is currently used in relation to a Sydney Metro - Western Sydney Airport construction compound.

Vegetation within the development site, includes trees sparsely located alongside the existing carriageway.

A review of Council records indicates that the following Development Applications in relation to the site, which are of relevance to the proposed development:

- Development Application No. DA16/0176, for a staged 7 lot subdivision, and associated civil works and earthworks, was approved on 20 February 2018. It is noted that the associated Development Consent was subsequently modified, by Modification Application No. DA16/0176.01, which was approved on 17 June 2019.
- Development Application No. DA17/0100, for land remediation works, was approved on 23 May 2017.
- Development Application No. DA18/0569, for a water recycling facility and access roads, was approved on 11 December 2018.
- Development Application No. DA20/0857, for a new 'T-intersection' and associated works, was refused on 1 September 2021. It is noted that a key reason for refusal of the application related to the non-support of Transport for NSW and the absence of a required 'Concurrence' from the Department of Planning, Industry & Environment.
- Development Application No. DA21/0606, for the subdivision of 4 lots into 4 lots, was approved on 16 December 2021.

State Significant Infrastructure Application No. SSI-10051, was approved by the Department of Planning, Industry & Environment on 23 July 2021, providing approval for the 'Sydney Metro – Western Sydney Airport', and such relates to part of the development site. It is noted that Modification Application No. SSI-10051-Mod-1, was approved by the Department of Planning & Environment on 14 April 2022, modifying the aforementioned approval.

Proposal

The application seeks Development Consent for:

- Tree removal.
- Upgrading of a 600m section of Luddenham Road, including the provision of additional traffic lanes (widened road alignment).
- Construction of an 'interim' signalised 'T-intersection' with Luddenham Road, including stub road to the west (an initial section of an identified / future 'Sub-Arterial Road').
- 'Temporary' site access driveway to the east of Luddenham Road, including deceleration lane, with left-in and left-out' only.
- Associated earthworks, including batters and a retaining wall.
- Stormwater management and drainage works.
- Footpaths and associated landscaping works.
- Subdivision of three (3) lots into six (6) lots, including the creation of three (3) 'Road Reserve' lots. The three (3) 'Road Reserve' lots are to accommodate the widened Luddenham Road alignment, the 'T-intersection' and the stub road to the west, for future dedication.

Plans that apply

- 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 (Transport and Infrastructure) 2021

Planning Assessment

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

Pursuant to Section 1.7 of the *Environmental Planning & Assessment Act 1979*, the provisions of Part 7 of the *Biodiversity Conservation Act 2016*, must be considered.

The application was accompanied by a Flora and Fauna Assessment Report which included a 'Test of Significance' ('5-part Test'), which was undertaken in accordance with the requirements of Section 7.3 of the *Biodiversity Conservation Act 2016*, to determine the potential impact of the proposed development upon threatened species or ecological communities, or their habitats. The 'Test of Significance' concluded that a significant impact upon threatened species or ecological communities, or their habitats, is unlikely to result from the proposed development.

Also it is noted that the site is not identified by the Biodiversity Values Map as 'containing land with high biodiversity value'.

Accordingly no further assessment is required in accordance with the provisions of Part 7 of the *Biodiversity Conservation Act 2016*.

• Section 4.14 - Bushfire prone land assessment

The application was accompanied by a Bushfire Assessment Report (which was prepared by a 'BPAD' / qualified Bushfire Risk Assessment Consultant), outlining that the road design provides for compliance with Table 5.3b of *Planning for Bushfire Protection 2019* and recommended that the installation of any utilities

(such as electricity and gas) should comply with Table 5.3c of *Planning for Bushfire Protection 2019*. The Bushfire Assessment Report concluded that the proposal provides for compliance with *Planning for Bushfire Protection 2019*.

Accordingly, given such and that the proposed lots are to be provided as either Residue Allotments or Road Reserve Lots, it is considered that the proposal is satisfactory in this regard, subject to the recommended conditions.

- **Section 4.15 - Evaluation**

The application 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 matters have been identified for further consideration.

- **Section 7.12 - Developer Contributions**

A portion of the development site is located on land to which the *Penrith Aerotropolis Development Contributions Plan 2023* applies and therefore 'Contributions' are payable in relation to such works. Accordingly, a condition is to be imposed requiring payment of 'Contributions', for the works to be carried out on land to which the *Penrith Aerotropolis Development Contributions Plan 2023* applies (i.e. within the existing Road Reserve of Luddenham Road, Lot 205 in DP 1280188, Lot 24 in DP 1277418 and Lot 26 in DP 1277418).

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

While the subject site is located within the 'Greater Sydney Region' (as identified by the 'Housing and Productivity Contribution Regions Map'), pursuant to Clause 4 of the *Environmental Planning & Assessment (Housing and Productivity Contribution) Order 2023*, such does not apply to the Western Sydney Aerotropolis Special Contributions Area, to which the determination under former Section 7.23 of the *Environmental Planning & Assessment Act 1979*, continues to apply until 1 July 2026.

- **Section Western Sydney Aerotropolis Special Infrastructure Contributions Direction**

The site is located within the Western Sydney Aerotropolis Special Infrastructure Contributions Area, which was introduced on 25 March 2022, pursuant to Section 7.24 of the *Environmental Planning & Assessment Act 1979*.

Accordingly, in accordance with the *Environmental Planning & Assessment (Special Infrastructure Contribution - Western Sydney Aerotropolis) Direction 2022*, a condition be imposed requiring the Developer to obtain, written evidence from the Department of Planning & Environment, that the Special Infrastructure Contribution for the development has been made or that arrangements are in force with respect to the making of the contribution.

Notwithstanding this, it is noted that pursuant to Section 7 of the *Environmental Planning & Assessment (Special Infrastructure Contribution - Western Sydney Aerotropolis) Determination 2022*, the development may be exempt from the Special Infrastructure Contribution, if the Planning Secretary certifies such.

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

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Pursuant to Section 2.3 of the *State Environmental Planning Policy (Biodiversity and Conservation) 2021*, Chapter 2 (Vegetation in Non-Rural Areas) applies to the site. The proposal involves the removal of 10 trees in conjunction with the overall development and according Development Consent has been sought for such, as required by Section 2.8.

The site is located within the 'Hawkesbury - Nepean Catchment' and therefore pursuant to Section 6.1 of *State Environmental Planning Policy (Biodiversity and Conservation) 2021*, Chapter 6 (Water Catchments) applies to such land.

Pursuant to Section 6.2 and Schedule 6, land within the 'Hawkesbury - Nepean Catchment' is defined as a 'regulated catchment'. Accordingly an assessment has been undertaken of the proposal against the relevant criteria outlined within Part 6.2 Division 2 (i.e. 'water quality and quantity', 'aquatic ecology', 'flooding', 'recreation and public access', and 'total catchment management'), which found the proposal to be satisfactory in relation to such, subject to associated conditions being imposed.

It is noted that the site is located within the 'South Creek Sub-Catchment', which is not identified as being part of the 'Hawkesbury - Nepean Conservation Area Sub-Catchment' (i.e. pursuant to Schedule 6) and therefore consideration does not need to be given to the provisions of Section 6.13.

The site is located within the 'Strategic Conservation Planning Area' and therefore pursuant to Section 13.1 of *State Environmental Planning Policy (Biodiversity and Conservation) 2021*, Chapter 13 (Strategic Conservation Planning) applies to such land. However, as the site is not identified as being 'Avoided Land', within a 'Strategic Conservation Area' or as 'Certified Urban Capable Land', no further assessment is required pursuant to Chapter 13.

State Environmental Planning Policy (Planning Systems) 2021

The estimated development cost given for the proposal is \$7,047,731. Accordingly as such is more than \$5 million and that Council is (considered as being) the owner of land on which the development is to be carried out (i.e. of the Road Reserve of Luddenham Road), pursuant to Section 2.19 and Schedule 6 of *State Environmental Planning Policy (Planning Systems) 2021*, the proposal is declared to be 'Regionally Significant Development'.

Therefore in accordance with Section 4.5 (b) of the *Environmental Planning & Assessment Act 1979*, the 'Consent Authority' is the Sydney Western City Planning Panel.

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

Pursuant to Section 4.3 of *State Environmental Planning Policy (Precincts - Western Parkland City) 2021*, Chapter 4 (Western Sydney Aerotropolis) of such applies to land identified on the 'Land Application Map'. The development site is identified by the 'Land Application Map' of the Aerotropolis, as being located within such.

This development site is zoned partly 'Enterprise' and partly 'Mixed Use' pursuant to Chapter 4 of *State Environmental Planning Policy (Precincts - Western Parkland City) 2021*. It is noted that the portion of the development site within the Sydney Metro - Western Sydney Airport corridor, is zoned under *State Environmental Planning Policy (Transport and Infrastructure) 2021* (being within the 'SP2 - Infrastructure' zone).

The proposed development is defined as a 'road', which is permitted with Development Consent in both the 'Enterprise' zone and the 'Mixed Use' zone pursuant to *State Environmental Planning Policy (Precincts -*

Western Parkland City) 2021.

The objectives for the 'Enterprise' zone are:

- *To encourage employment and businesses related to professional services, high technology, aviation, logistics, food production and processing, health, education and creative industries.*
- *To provide a range of employment uses (including aerospace and defence industries) that are compatible with future technology and work arrangements.*
- *To encourage development that promotes the efficient use of resources, through waste minimisation, recycling and re-use.*
- *To ensure an appropriate transition from non-urban land uses and environmental conservation areas in surrounding areas to employment uses in the zone.*
- *To prevent development that is not compatible with or that may detract from the future commercial uses of the land.*
- *To provide facilities and services to meet the needs of businesses and workers.*

The objectives for the 'Mixed Use' zone are:

- *To integrate a mixture of compatible land uses in accessible locations.*
- *To promote business, office, retail, entertainment and tourist uses.*
- *To promote a high standard of public amenity and convenient urban living.*
- *To provide for residential and other accommodation that includes active non-residential uses at street level.*
- *To ensure an appropriate transition from non-urban land uses and environmental conservation areas in surrounding areas to urban land uses in the zone.*

It is considered that the proposed development is not inconsistent with these objectives.

Pursuant to Section 4.14, land may be subdivided (but only) with Development Consent.

The following outlines assessment of the proposal, in accordance with the remaining relevant provisions of Chapter 4 of *State Environmental Planning Policy (Precincts - Western Parkland City) 2021*.

Consideration of Section 4.17 (Aircraft Noise)

The site is identified as being outside of the areas with an Australian Noise Exposure Concept (ANEC) contour of 20 or greater. Accordingly no further assessment is required in this regard.

Consideration of Section 4.19 (Wildlife Hazards)

While the site is located within the '8km Wildlife Buffer Zone' area, the proposal does not relate to 'relevant development'. Accordingly no further assessment is required in this regard.

Consideration of Section 4.21 (Lighting)

While the site is located within the '6km Lighting Intensity Radius' area, the proposal does not relate to 'development for the purpose of a classified road', a 'freight transport facility', a 'heavy industrial storage establishment' or a 'recreation facility'. Although associated streetlighting forms part of the overall works, given the scale of the development such is not likely to be obtrusive or create light spill outside of the land on which the construction works are carried out. Accordingly no action (i.e. consultation with the Western Sydney Airport) or further consideration needs to be given in this regard.

Notwithstanding this, it is recommended that a condition be imposed requiring any associated lighting to be designed and directed so as to not cause light spill or to provide a distraction for air operations.

Consideration of Section 4.22 (Airspace Operations)

The site is located within the 'Obstacle Limitation Surface' area, however the proposal does not penetrate

the identified prescribed air space.

Consideration of Section 4.24 (Flood Planning)

No part of the development site is located within the 'Flood Planning Area'. Accordingly no further assessment is required in this regard.

Consideration of Section 4.25 (Preservation of Trees and Vegetation in Environment and Recreation Zone and Cumberland Plain)

No part of the development site is zoned 'Environment and Recreation' or identified as a 'High Biodiversity Value Area'. Accordingly no further assessment is required in this regard.

Consideration of Section 4.25A (Clearing of Native Vegetation)

No part of the development site is identified as a 'High Biodiversity Value Area'. Accordingly no further assessment is required in this regard.

Consideration of Section 4.27 (Transport Corridors)

The proposal relates to 'Transport Corridor Land' (comprising of the 'Metro Alignment' and a 60m wide 'Primary Arterial' road) on the 'Transport Corridors Map' with an estimated development cost of more than \$200,000 and involves the penetration of ground to a depth of at least 2m. Accordingly pursuant to Section 4.27 (1) the application was referred to Transport for NSW. In response Transport for NSW provided 'Concurrence', subject to conditions, which have been included within the recommended conditions.

Furthermore, portions of the development site are located within the '400 metre zone' for the 'Luddenham Road Metro Station'. Accordingly, as the proposal has an estimated development cost of more than \$200,000, consultation was had with Sydney Metro, pursuant to Section 4.27 (3). In the final associated response provided by Sydney Metro, no concerns were raised subject to conditions, which have been addressed within the recommended conditions.

Consideration of Section 4.28A (Sydney Science Park)

While a portion of the development site is located within the 'Sydney Science Park' land, the proposal does not relate to any residential accommodation or involve any buildings. Accordingly no further assessment is required in this regard.

Consideration of Section 4.28B (Aboriginal Cultural Guidelines)

Having regard to *Recognise Country: Guidelines for Development in the Aerotropolis*, and the Aboriginal Heritage Due Diligence Assessment Report and an associated addendum letter (dated 17 July 2023) which accompanied the application, it is considered that the proposed development provides for an outcome which is consistent with the cultural values and landscape elements of the broader area.

Consideration of Part 4.5 (Design Excellence)

As the development relates to a site area in excess of 10,000 sqm, consideration must be given to the provisions of Section 4.31. Consultation was had with the Government Architect NSW, who approved the Penrith Urban Design Review Panel to review this specific proposal.

Accordingly the Penrith Urban Design Review Panel reviewed the proposed development and made the following findings:

- *The preparatory works primarily relate to road widening, road upgrades and a new (interim) signalised intersection. These works align with the broader strategic vision for the site, and do not fetter the ability for orderly and economic development of the site or Luddenham Road, noting that Transport for NSW has not yet finalised the ultimate design for the Luddenham Road upgrade.*
- *The proposed works are not considered to fetter the ability to achieve design excellence outcomes on the site by way of future development proposals. The site is deemed to be suitable for the proposed*

development and the considerations outlined within Section 4.33 (2) of State Environmental Planning Policy (Precincts - Western Parkland City) 2021, are deemed satisfied (or can be satisfied upon finalised road design and construction arrangements) where they are relevant to the scope of works proposed.

- *The Panel unanimously formed the view that future design excellence outcomes are not impeded or limited as a consequence of this proposal.*

Notwithstanding the relatively minor nature of the proposal and that such is only an interim measure ahead of the future overall Luddenham Road upgrade, it is considered that such exhibits design excellence having regard to associated matters (including the response to the physical and cultural connection of the local Aboriginal community to the land, that the development will improve the quality and amenity of the public domain, the suitability of the site, existing uses, Aboriginal heritage, the relationship of the development with existing buildings, and vehicular access and circulation requirements), as required by Section 4.33.

Consideration of Section 4.39 (Development must be Consistent with Precinct Plan)

The site is located within the 'Northern Gateway Precinct' to which the *Western Sydney Aerotropolis Precinct Plan 2024* applies.

The proposed development provides for the rationalisation of access points to / from Luddenham Road, by facilitating connection to service private developments via future local streets, and also maintains the protection of the Sydney Metro Western Sydney Airport corridor. Overall assessment of the proposal has found such to be consistent with the *Western Sydney Aerotropolis Precinct Plan 2024* (see detailed consideration given to such under the specific 'Western Sydney Aerotropolis Precinct Plan' part of this Assessment Report).

Consideration of Section 4.42 (Consent Authority to Consider Master Plan)

No Master Plan or proposed (Draft) Master Plan, applies to the site or any adjacent land.

State Environmental Planning Policy (Resilience and Hazards) 2021

Pursuant to Section 4.6 of *State Environmental Planning Policy (Resilience and Hazards) 2021*, Development Consent must not be granted unless consideration has been given to, 'whether the land is contaminated', 'if the land is contaminated that it is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out', and 'if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out that the land will be remediated before the land is used for that purpose'.

Contamination matters have previously been considered as part of Development Application No. DA17/0100, in relation to land remediation works across the Sydney Science Park site, and State Significant Infrastructure Application No. SSI-10051, for the Sydney Metro - Western Sydney Airport development in relation to the Sydney Metro land. It is noted that there are contamination safeguard related conditions imposed upon both Development Consent No. DA17/0100 and State Significant Infrastructure Approval No. SSI-10051-Mod-1. Furthermore, there is no indication to suggest that the development site is contaminated and the proposed development does not involve a change of use.

Notwithstanding this, it is recommended that a contamination safeguard related condition be imposed.

Overall it is considered that the proposal satisfies the relevant provisions of Chapter 4 of *State Environmental Planning Policy (Resilience and Hazards) 2021*.

State Environmental Planning Policy (Transport and Infrastructure) 2021

The proposal involves the relocation of existing exposed overhead and underground electricity power lines within the Road Reserve of Luddenham Road. Accordingly pursuant to Section 2.48 of *State Environmental*

Planning Policy (Transport and Infrastructure) 2021, 'Written Notice' of the application was given to Endeavour Energy (as the electricity supply authority for the area). In response Endeavour Energy provided no objection to the proposal, subject to specific conditions being imposed. The conditions provided by Endeavour Energy have been included within the recommended conditions.

The proposal involves earthworks to a depth of at least 3m and works within the Sydney Metro - Western Sydney Airport corridor. Accordingly pursuant to Section 2.99 of *State Environmental Planning Policy (Transport and Infrastructure) 2021*, 'Written Notice' of the application was given to Sydney Metro (as the rail authority for the Sydney Metro - Western Sydney Airport corridor). In the final response provided by Sydney Metro no concerns were raised and 'Concurrence' was given subject to conditions, which have been included within the recommended conditions. Furthermore consideration has been given to *Development Near Rail Corridors and Busy Roads – Interim Guidelines*, and no inconsistencies have been identified between such and the proposed development.

Pursuant to Section 4.3 of *State Environmental Planning Policy (Transport and Infrastructure) 2021*, Chapter 4 (Major Infrastructure Corridors) of such applies to land within a 'future infrastructure corridor'. The portion of the development site within the Sydney Metro - Western Sydney Airport corridor, is identified by the 'Future Infrastructure Corridor Map' as being located within such. Furthermore, as the proposal involves earthworks to a depth of at least 3m, pursuant to Sections 4.3 & 4.9, Chapter 4 also applies to land within 25m of the Sydney Metro - Western Sydney Airport corridor.

The portion of the development site within the Sydney Metro - Western Sydney Airport corridor is zoned 'SP2 - Infrastructure', pursuant to *State Environmental Planning Policy (Transport and Infrastructure) 2021*. The proposed development is defined as a 'road', which is permitted with Development Consent in the 'SP2 - Infrastructure' zone pursuant to *State Environmental Planning Policy (Transport and Infrastructure) 2021*.

The objectives of the 'SP2 - Infrastructure' zone are:

- to provide for infrastructure and related uses.
- to prevent development that is not compatible with or that may detract from the provision of infrastructure.

It is considered that the proposal is consistent with these objectives.

The following outlines assessment of the proposal in accordance with the remaining relevant provisions of Chapter 4 of *State Environmental Planning Policy (Transport and Infrastructure) 2021*.

Consideration of Section 4.8 (Subdivision of Land Prohibited)

The associated subdivision relates to the creation of three (3) 'Road Reserve' lots to accommodate the widened Luddenham Road alignment and will not result in any additional lot (or part lot).

Consideration of Section 4.9 (Excavation In, Above, Below or Adjacent to Future Infrastructure Corridors)

As the proposal involves earthworks to a depth of at least 3m, 'Written Notice' of the application was given to Transport for NSW.

In response Transport for NSW have raised no concerns and reiterated that Sydney Metro are the rail authority for the Sydney Metro - Western Sydney Airport corridor. While Transport for NSW have not provided 'Concurrence' pursuant to Section 4.9 of *State Environmental Planning Policy (Transport and Infrastructure) 2021*, in accordance with subsection (5) Development Consent may be granted without the concurrence of Transport for NSW (if 21 days have passed since 'Written Notice' was given and Transport for NSW has not (specifically) refused to grant 'Concurrence').

Furthermore consideration has been given to *Development Near Rail Corridors and Busy Roads – Interim Guidelines*, and no inconsistencies have been identified between such and the proposed development.

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

No Draft Environmental Planning Instruments are applicable to the subject application.

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

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

The broader Sydney Science Park is subject to two (2) Planning Agreements, which were both executed in 2016. A State Planning Agreement in relation to monetary contributions towards future public infrastructure, and a Planning Agreement with Council in relation to monetary contributions, along with the delivery of various works and publicly accessible areas (such as stormwater management works, roads, landscaping, open space, parks and sporting / recreation facilities).

It is recommended that conditions be imposed to ensure that any obligations of the Landowner / Developer made in either of Planning Agreements, which are associated with the proposed development, have been satisfied.

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

Part 3 Division 1 - Making Development Applications

The application was made in accordance with the associated requirements of Part 3 Division 1.

Section 35 - Additional Requirements for Development Applications in Certain Areas of Sydney

The application has been accompanied by an assessment of the consistency of the development with the *Western Sydney Aerotropolis Plan* and the *Western Sydney Aerotropolis Precinct Plan 2024* (being the applicable 'relevant plans' for the 'Western Sydney Aerotropolis').

Section 66 - Contributions Plans for Certain Areas in Sydney

A portion of the proposed development is located on land to which the *Penrith Aerotropolis Development Contributions Plan 2023* applies, while the remaining portion of the development is located on land that is subject to a Planning Agreement with Council (i.e. being part of the broader 'Sydney Science Park'). Therefore the subject application can be determined for the purpose of Section 66 of the *Environmental Planning & Assessment Regulation 2021*.

Section 70 - Erection of Signs

It is recommended that a condition be imposed requiring the erection of a sign in a prominent position on the site for the duration of works, providing details (including of the principal certifier and the principal contractor) as required by this Section.

Section 74 - Shoring and Adequacy of Adjoining Property

It is recommended that a condition be imposed in relation the protection and support of adjacent buildings, structures and works on adjoining land, as required by this Section.

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

It is considered that the proposal does not provide any adverse environmental, social or economic impacts, subject to the recommended conditions being imposed.

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

Assessment of the application has found the site to be suitable for the proposed development, subject to the recommended conditions.

Section 4.15(1)(d) Any Submissions

Community Consultation

The application was advertised (through a notice in a local newspaper), and notified to adjacent property and residents from 29 January 2024 until 26 February 2024, in accordance with the *Penrith City Council Community Engagement Strategy & Community Participation Plan*. No submissions were received as a result of this process.

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 - Waterways	No objections - subject to conditions
Traffic Engineer	No objection
Planning and Sustainability	No objections - subject to conditions

Section 4.15(1)(e)The public interest

The proposed development will not generate any significant issues of public interest, subject to the recommended conditions being imposed.

Conclusion

Having regard to the assessment of the application, the proposed development can be summarised as follows:

1. The site is zoned partly 'Enterprise' and partly 'Mixed Use' pursuant to Chapter 4 ('Western Sydney Aerotropolis') of *State Environmental Planning Policy (Precincts - Western Parkland City) 2021*, and partly 'SP2 - Infrastructure' pursuant to Chapter 4 ('Major Infrastructure Corridors') of *State Environmental Planning Policy (Transport and Infrastructure) 2021*. 'Roads' are permitted with Development Consent in each of these zones.
2. The proposal is considered to be consistent with objectives for the 'Enterprise', 'Mixed Use' and 'SP2 - Infrastructure' zones.
3. The proposal provides for the rationalisation of access points to / from Luddenham Road, by facilitating connection to service private developments via future local streets, and also maintains the protection of the Sydney Metro Western Sydney Airport corridor.
4. Assessment of the proposal has found such to be consistent with the *Western Sydney Aerotropolis Precinct Plan 2024*, including in relation to specific provisions for the 'Northern Gateway Precinct' and 'Urban Structure' (including the established indicative road network).
5. The proposal satisfactorily responds to associated considerations, such as in relation to civil engineering, traffic safety, biodiversity, waterway quality and construction management.
6. It is considered that the proposal will not provide any significant adverse or unreasonable impacts on the broader area.

Overall, assessment of the proposal has found the proposed development to be acceptable and accordingly it is recommended that the application be approved, subject to the recommended conditions.

Recommendation

That Development Application No. DA24/0009, be approved, subject to the following recommended conditions.

CONDITIONS

General

- 1 The development must be implemented substantially in accordance the following stamped approved plans and supporting information received with the application, except as varied by any conditions within this Development Consent:
 - Civil Engineering Drawings, prepared by Enspire Solutions P/L, Drawing Nos.180001-01-DA-C01.01 to 180001-01-DA-C26.01, dated 23 December 2023 (final Revision No. 8, dated 8 November 2024)
 - Landscape DA Report, prepared by Place Design Group, Drawing Nos.100 to 902, Revision No. 06, dated 13 December 2023
- 2 Prior to the issue of a Subdivision Works Certificate, amended plans are to be provided to the Certifying Authority, repositioning the retaining wall and the associated headwall proposed along the eastern edge of the development site, fully outside the 60m wide 'Primary Arterial' / 'Transport Corridor Land' (i.e the future Road Reserve area for Luddenham Road), as identified on the 'Transport Corridors Map' of State Environmental Planning Policy (Precincts - Western Parkland City) 2021.
- 3 The proposed Traffic Control Signal/s at the intersection of Sydney Science Park Access Road 01 / Luddenham Road, shall be designed to meet Transport for NSW requirements. The Traffic Control Signal plans, shall be prepared by a suitably qualified person and endorsed by a suitably qualified practitioner.

The submitted design shall be in accordance with Austroads Guide to Road Design in association with relevant Transport for NSW supplements. The certified copies of the Traffic Control Signal design and civil design plans, shall be submitted to Transport for NSW for consideration and approval, prior to the release of a Construction Certificate and commencement of roadworks. Please send all documentation to development.sydney@transport.nsw.gov.au.

The developer will be required to enter a Works Authorisation Deed for the abovementioned works.

Transport for NSW fees for administration, plan checking, civil works inspections and project management shall be paid by the developer prior to the commencement of works.

- 4 A Subdivision Works Certificate must be obtained from Penrith City Council, prior to commencement of any works.
- 5 Prior to the issuing on any Subdivision Works Certificate the Applicant is required to enter a Works Authorisation Deed with Transport for NSW, and obtain formal approval under Section 87 (4) of the *Roads Act 1993*, for the traffic control signals and associated works.
- 6 The development is required to comply with the attached Sydney Metro (Western Sydney Airport Corridor) Concurrence conditions and requirements, dated 6 September 2024.

Where separate approval is required, evidence of such is to be provided to the appointed Certifying Authority prior to the issue of any Subdivision Works Certificate.

- 7 Lighting is to be designed and directed so as to not cause light spill creating a nuisance to surrounding properties, or to provide any distraction for air related activities associated with the Western Sydney Airport.

All associated lighting must be consistent with the requirements of:

- ASINZS 4282:2019 Control of the obtrusive effects of outdoor lighting, relevant Australian Standards in the series ASINZS 1158 - Lighting for Roads and Public Spaces;
- NASF Guideline E: Managing the Risk of Distractions to Pilots from Lighting in the Vicinity of Airports; and
- NASF Guideline C: Managing the risk of wildlife strikes in the vicinity of airports.

- 8 With respect to development that involves excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land, including a structure or work in a road or rail corridor, the applicant must at their own expense:-

- (a) protect and support any building, structure or work on adjoining land from possible damage from the excavation,
- (b) if necessary, underpin the building, structure or work on adjoining land to prevent damage from the excavation.

Note: These requirements do not apply if:-

- (a) the person having the benefit of the development consent owns the adjoining land, or
- (b) the owner of the adjoining land gives written consent to the condition not applying.

Demolition

- 9 Demolition works are to be completed in accordance with the approved drawings.

- 10 All demolition works are to be conducted in accordance with AS 2601-2001 The demolition of structures.

SafeWork NSW requirements apply to demolition work and compliance with those requirements, including the SafeWork NSW Code of Practice Demolition Work August 2019, is required.

Prior to demolition, all services shall be suitably disconnected and capped off or sealed to the satisfaction of the relevant service authority requirements.

- 11 Regulatory obligations (including licensing and notification requirements) for the management, control and removal of asbestos are prescribed in the:

- *Work Health and Safety Act 2011,*
- *Work Health and Safety Regulation 2017*
- *SafeWork NSW Code of Practice How to Manage and Control Asbestos in the Workplace August 2019,*
- *SafeWork NSW Code of Practice How to Safely Remove Asbestos August 2019.*
- *Australian Standard AS2601-2001 The demolition of structures*

Compliance with the above legislation is required and reference should be made to SafeWork NSW and to the Asbestos Policy Penrith City Council 2014.

All asbestos laden waste must be disposed of at a waste management facility licensed by the NSW Environment Protection Authority to receive asbestos waste.

Heritage/Archaeological relics

- 12 To ensure that Aboriginal cultural heritage is not adversely affected by the proposed development, should any objects, relics or items of Aboriginal cultural significance be encountered during any phase of the works (particularly during excavation), all work must cease within a 5m radius. A suitably qualified consulting Archaeologist is to be contacted to undertake a survey and assessment of the site. Contact with the Office of Environment and Heritage or the current appropriate state government agency will also be required.
- 13 Works are to be undertaken in accordance with Aboriginal Heritage Impact Permit No. C0003861, issued on 23 July 2018.
- 14 Prior to the issuing on any Subdivision Works Certificate, the Applicant is to make an Archival Recording of the development site and submit such to Penrith City Council. The Archival Recording shall be prepared by an experienced Heritage Consultant and is to include / consider:
 - Any remaining cultural heritage elements, such as early post and rail fencing, and any early “milestones” (which could be either sandstone or hardwood timber type).
 - That the area is rapidly changing from a rural area to an industrialised / developed area around the Western Sydney Airport.
 - The hitherto rural character of the area.
 - Author, client, date and copyright.
 - Statement of why the record was made.
 - An outline of the Road Reserve area and any associated structures.
 - Location Plan (showing relationship to surrounding geographical features, structures, roads, vegetation etc.).
 - Base Plan (drafted or hand-drawn), including north point, cross references to photographs, and any relevant features and structures and spaces.
- 15 If any archaeological relics, including any post and rail fencing, and / or early “milestones” (which could be either sandstone or hardwood timber type), are uncovered during the course of the works, 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

- 16 Prior to the issuing of any Subdivision Works Certificate, a Construction Environmental Management Plan is to be developed, with relevant mitigation measures to ameliorate potential impacts to biodiversity values outside of the development footprint and should include:
- Sediment and erosion controls.
 - Establishment of clearly defined areas, such as the approved development footprint and any 'no-go' areas within / adjacent to work site boundaries that are not to be in any way disturbed or damaged by the works, particularly adjacent to vegetation to be retained and the streams within the study area.
 - Tree protection measures to retain all hollow-bearing trees outside the development footprint.
 - Construction fencing prior to and during construction to ensure that construction related impacts are contained within the construction areas.
 - Sediment fencing, which should be placed within 2m of the construction footprint and machinery lay-down areas.
 - Surface runoff, which should be diverted away from areas of soil disturbance and drainage lines.
 - Measures to prevent tracking of soils / sediments from work site to roadways, footpaths, and drainage lines as a result of work vehicle / machinery movement.
 - How vehicle and machinery movement will be confined to designated tracks and work areas.
 - That work will not take place during or after heavy rain when doing so is likely to cause soil erosion or soil structural damage.
 - No washing of concrete will be undertaken on site.
 - Instructions for dealing with orphaned or injured native animals, and include contact details for the NSW Wildlife Information, Rescue and Education Service Inc. (WIRES).
 - Measures to reduce the spread of weeds, what weed species are present on site and how best to treat them (Refer to the Noxious and environmental weed control handbook: a guide to weed control in non-crop, aquatic and bushland situations, 5th edition, Department of Primary Industries)

Prior to the issuing of any Subdivision Works Certificate, the Construction Environmental Management Plan is to be approved by the Principal Certifier.

The approved Construction Environmental Management Plan is to be complied with for the duration of works.

- 17 Prior to commencement of any works, the Applicant must design and detail the erosion and sediment control measures, to achieve compliance with the integrated water cycle management related provisions of the Western Sydney Aerotropolis Development Control Plan 2024.

A detailed Erosion and Sediment Control Plan must be prepared by a Chartered Professional Erosion and Sediment Control (CPESC) specialist, which:

- a) Provides for compliance with the integrated water cycle management related provisions of the Western Sydney Aerotropolis Development Control Plan 2024.
- b) Has prepared in accordance with Managing Urban Stormwater: Soils and Construction – Volume 1: Blue Book (Landcom, 2004) and with the WSUD design principles set out in the Technical Guidance for Achieving Wianamatta South Creek Stormwater Management Targets (NSW Government, 2022).
- c) Demonstrates how drainage is to be controlled in the footprint of the proposed works, in accordance with the Protection of the Environment Operations Act 1997, and to avoid impacts on adjacent / nearby habitats and threatened ecological communities (including adjacent Cumberland Plain Woodland).
- d) includes:
 - i) each major phase of earthworks and construction including catchment plans and calculations and sizing for all major drainage and sediment controls for each phase;
 - ii) the type of sediment basin, details of all functional components and calculations demonstrating compliance with the Western Sydney Aerotropolis Development Control Plan 2024;
 - iii) demonstrate the timing and sequencing of earthworks will be managed to ensure the construction phase stormwater quality targets can be met;
 - iv) detail the timing, methods and performance requirements for stabilisation of disturbed areas;
 - v) detail measures to manage external catchment flows and dispersive soils; and
 - vi) details of how the proposed erosion controls outlined in the plan will be monitored to ensure management remains effective

The Erosion and Sediment Control Plan is to be approved by the appointed Certifying Authority, prior to the issue of any Subdivision Works Certificate.

The Applicant must:

- a) Implement the approved Erosion and Sediment Control Plan for the duration of all works, and until all disturbed areas have been rehabilitated and stabilised.
 - c) Ensure that erosion and sediment controls on the site, are supervised and certified by a CPESC. Monthly audits are to be completed by CPESC, and kept on record for the duration of works and for an additional 12 months.
- 18 Dust suppression techniques are to be employed during all works to reduce any potential nuisances to surrounding properties.
- 19 If any contamination is found on site during the excavation or construction phase of the development, including contaminated soils, groundwater, buried building materials or asbestos, works are to stop and an 'Unexpected Finds Protocol' ('the Protocol') is to be developed by an appropriately qualified Environmental Consultant. The Protocol is to address (at a minimum) the management of any contamination found, is to be submitted to and approved by the Principal Certifying Authority, prior to the recommencement of works, and complied with for the duration of works.

Utility Services

- 20 The development is required to comply with the attached Endeavour Energy conditions and advices, dated 24 January 2024.

Where separate approval is required, evidence of such is to be provided to the appointed Certifying Authority, prior to the issue of any Subdivision Works Certificate.

- 21 The plans must be approved by Sydney Water prior to demolition, excavation or construction works commencing. This allows Sydney Water to determine if sewer, water or stormwater mains or easements will be affected by any part of your development. Any amendments to plans will require re-approval. Please go to Sydney Water Tap in® to apply.

Sydney Water recommends developers apply for a Building Plan Approval early as to reduce unnecessary delays to further referrals or development timescales.

- 22 The installation of any utilities (such as electricity and gas) is to be completed in accordance with Table 5.3c of *Planning for Bushfire Protection 2019*.

Construction

- 23 Prior to commencement of any works, the Applicant must develop a Staging Plan in consultation with Sydney Metro, setting out the construction staging of the development, including the relationship with the construction / delivery of the Luddenham Road Metro Station and the staging of other relevant works.

The Staging Plan is to be submitted to the Certifying Authority prior to the issuing on any Subdivision Works Certificate and is to be complied with for the duration of works.

- 24 Prior to commencement of any works, a Construction Management Plan is to be developed in consultation with Sydney Metro, which is to include (but not limited to) the following:
- a) Details of vehicle routes, peak hour and daily truck movements, hours of operation, access arrangements and traffic control measures for all demolition / construction activities.
 - b) An assessment of the likely construction traffic impacts, such as required road / lane closures and diversions, impacts on the timing of other construction activities within this part of the Precinct by Sydney Metro.

The final Construction Management Plan is to be submitted to the Certifying Authority prior to the issuing on any Subdivision Works Certificate and is to be complied with for the duration of works.

- 25 The Applicant must consider future proofing including the provision for electrical conduits, kerb and guttering, identification of the location for the traffic signal hardware. Any associated 'Roads Act Application' made under the *Roads Act 1993*, for must demonstrate there are adequate utilities nearby to connect to the signalised intersection.

- 26 Stamped plans, specifications, a copy of this 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 period of works on-site, and
- in a prominent position on the work site and in a manner that can be easily read by pedestrian traffic.

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

- 27 Prior to the commencement of any works, 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 Penrith City Council, or
- alternatively, any other sewage management facility approved by Penrith City Council.

- 28 No work is to commence on site until such time as a person accredited to prepare traffic control plans in accordance with AS1742.3 "Traffic Control Devices for Works on Roads" and the Roads and Traffic Authority's publication "Traffic Control Works on Roads" and the Roads and Traffic Authority's publication "Traffic Control at Worksites" has certified a Traffic Control Plan for the development/site. The Traffic Control Plan shall be implemented during the construction phase of the development and a copy of the plan shall be available on site at all times.

A copy of the Traffic Control Plan shall accompany the Notice of Commencement to be submitted to Penrith City Council 2 days before any work is to commence onsite.

- 29 a) Tree protection measures (such as machinery exclusion zones from tree roots and tree trunk protection) should be in place for any retained trees and to protect adjacent native vegetation during all construction works.

b) High visibility orange bunting should be placed at a 1m distance from the trunk of the tree with 'no-go' signage attached.

30 a) Prior to the commencement of any works:

- Vegetation to be removed is to be clearly delineated and 'No-Go' zones established.
- All hollow bearing trees should be visually marked within the footprint with blue high visibility spray paint

b) Micro-siting of infrastructure or use of construction methods that do not impact trees must be implemented, and an Arborist must certify tree protection measures that can enable the protection of all hollow-bearing trees outside of the development footprint.

c) Construction activities within the tree protection zone (TPZ) of trees to be retained, must be assessed and approved by the project arborist and must comply with AS 4970-2009 - Protection of trees on development sites.

d) A pre-clearance survey is to be undertaken for any hollow-bearing tree to be removed in the development footprint, in accordance with the 'Mitigation Measures' outlined within the Flora and Fauna Assessment Report that accompanied the Development Application.

31 A Construction Waste Management Plan is to be prepared in accordance with the requirements of the *Western Sydney Aerotropolis Development Control Plan 2024* and applicable legislation (including the *Protection of Operations Act 1997*), and is to address all waste materials likely to result from the proposed development, with details of the estimated waste volumes, onsite storage and management, proposed re-use of materials, designated waste contractors, recycling outlet and / or landfill site.

The Construction Waste Management Plan is to be approved by the appointed Certifying Authority, prior to the issue of any Subdivision Works Certificate.

The approved Construction Waste Management Plan must be implemented on-site and adhered to throughout all stages of the development, with supporting documentation / receipts retained in order to verify the recycling and disposal of materials.

32 a) The Applicant must ensure that any fertilisers, turf, mulch, weeds and imported soils, are not introduced into areas of environmental value (i.e. through natural drainage pathways or general proximity).

b) Any chemicals and rubbish must be fully contained within the construction area.

c) Any chemicals must be correctly stored within bunding.

d) Weed removal should be undertaken using mechanical and manual means. If herbicides are to be used, they should be used as described in the product label, and not in proximity to any creek line.

33 Construction vehicle access should be restricted to designated work areas and existing formed access tracks / roadways.

34 a) Works are to be restricted to the following hours:

- 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.

b) The provisions of the Protection of the Environment Operations Act 1997 and the NSW Environment Protection Authority Noise Control Guidelines are to be complied with during all works.

Engineering

- 35 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.
- 36 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 the issue of any Subdivision Works Certificate. 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 Asset Management Department on 4732 7777 or visit Penrith City Council's website for more information.

- 37 Lodgement 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 occupation.
- c) Road reserve openings for the installation of:
 - Utilities (water, sewer, power, telecommunications).
 - Private stormwater connections to the kerb (including stormwater connection to Penrith City Council owned drainage).
 - 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.
- g) Temporary ground anchors that encroach below 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, this 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:

- Separate approval may be required from Transport for NSW for classified roads.
- All works associated with the Roads Act approval(s) must be completed prior to the issue of any Subdivision Certificate.
- On completion of any awning over the road reserve, a certificate from a practicing structural engineer certifying the structural adequacy of the awning is to be submitted to Council before Council will inspect the works and issue its final approval under the Roads Act.

- 38 **Prior to the issue of any Subdivision Works Certificate**, the Certifier shall ensure that a Section 138 Roads Act application, including payment of application and inspection fees, has been lodged with and approved by Penrith City Council (being the Roads Authority under the Roads Act) for works associated with the construction of a new signalised intersection on Luddenham Road, Luddenham.

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

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

Note:

- Where Penrith City Council is the Certifier for the development, the Roads Act approval for the above works may be issued concurrently with the Subdivision Works Certificate.
- Separate approval may be required from the Transport for NSW for classified roads or signalised intersection works.
- All works associated with the Roads Act approval must be completed prior to the issue of any Subdivision Certificate as applicable.

- 39 Prior to the issue of any Subdivision Works Certificate, the Certifier shall ensure that any applicable application, including the payment of application and inspection fees, has been lodged and approved by Transport for NSW for any works associated with the construction of a new signalised intersection within the (Luddenham) Road Reserve.

A copy of the Transport for NSW approval, shall be submitted to Penrith City Council prior to the issuing any Roads Act approval.

- 40 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 plans, 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 be contacted on 4732 7777 to obtain a formal fee proposal prior to lodgement or if you require any assistance with the lodgement process.

- 41 A Stage 3 (detailed design) Road Safety Audit, 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 Road Safety Audit shall accompany the design plans submitted with the Subdivision Works Certificate or Roads Act application.

Prior to the issue of any Subdivision Works Certificate and / or any Section 138 Roads Act approval, the Certifier shall ensure that the recommendations of the Road Safety Audit have been considered in the final design, through review of the Road Safety Audit Checklist, including findings, recommendations and corrective actions.

- 42 The stormwater management system shall be provided generally in accordance with the stamped approved Civil Engineering Drawings (prepared by Enspire Solutions P/L).

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

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

- 43 Prior to the commencement of any works, a Construction Traffic Management Plan shall be submitted to Penrith City Council's Asset Management Department for endorsement.

The Construction Traffic Management Plan shall be prepared by a suitably qualified consultant with appropriate training and certification from Transport for NSW, and include details of any required road closures, work zones, loading zones and the like.

Approval of the Construction Traffic Management Plan 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.

- 44 Prior to the issue of a Roads Act Approval, a Performance Bond is to be lodged with Penrith City Council for the construction of a new signalised intersection and the associated works within the existing (Luddenham) Road Reserve.

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

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

- 45 The Applicant 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.

The Dilapidation Report shall be submitted to Council as part of any Subdivision Works Certificate and / or S138 Roads Act Application.

The Dilapidation Report shall then be updated (confirming that no damage has occurred or otherwise) and submitted to Council prior to the issue of any Subdivision Certificate.

- 46 Prior to commencement of any works, 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 publication Traffic Control at Worksites Technical Manual, and certified by an appropriately accredited Transport for NSW 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.

- 47 Works shall not commence until:

- a Subdivision Works Certificate has been issued,
- a Certifier has been appointed for the project, and
- any other matters prescribed within this Development Consent, 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 works.

- 48 Street lighting is to be provided for all new and existing roads in accordance with Penrith City Council's standards.

- 49 All earthworks shall be undertaken in accordance with AS3798 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.

- 50 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.

- 51 All electricity supply services are to be located underground within the verge area, in accordance with the relevant authorities regulations and standards.

- 52 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.

- 53 Prior to the issue of any Subdivision Certificate, the Principal Certifier shall ensure that all works associated with a S138 Roads Act approval have been inspected and signed off by Penrith City Council and Transport for NSW.
- 54 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 and / or Transport for NSW for any outstanding works.
- 55 Prior to the issue of any 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.
- 56 **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.

- 57 Prior to the issue of a Subdivision Certificate, an application is to be lodged with Penrith City Council for any proposed street name(s) in accordance with the NSW Address Policy and User Manual by Geographical Names Board, and the street name(s) approved and the signage erected.

Notes:

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

58 Prior to the issue of a Subdivision Certificate the following compliance documentation shall be submitted to the Principal Certifying Authority:

- a) Works as executed drawings of all civil works. The works as executed 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 Work as executed drawings shall be prepared in accordance with Council's Engineering Construction Specification for Civil Works.
- b) The works as executed drawings shall clearly indicate the 1% Annual Exceedance Probability flood lines (local and mainstream flooding).
- c) The works as executed drawings shall be accompanied by plans indicating the depth of fill for the entire development site. The plans must show, by various shadings or cross hatchings, the depth of any fill within 300mm depth ranges.
- d) CCTV footage in DVD format to Council's requirements and a report in "SEWRAT" format for all drainage within future public roads and public land. Any damage that is identified is to be rectified in consultation with Penrith City Council.
- e) A copy of all documentation, reports and manuals required by Section 2.6 of Penrith City Council's WSUD Technical Guidelines for handover of stormwater management facilities to Council.
- f) Surveyor's Certificate certifying that all pipes and services are located wholly within the property or within appropriate easements and that no services encroach boundaries.
- g) Documentation for all road pavement materials used demonstrating compliance with Council's Engineering Construction Specification for Civil Works.
- h) A Geotechnical Report certifying that all earthworks and road formation have been completed in accordance with AS3798 and Council's Design Guidelines and Construction specifications. The report shall include:
 - Compaction reports for road pavement construction.
 - Compaction reports for bulk earthworks and lot regrading.
 - Statement of Compliance.
- i) Structural Engineer's construction certification of all structures.
- j) A slope junction plan for inter-allotment drainage lines indicating distances to boundaries and depths.
- k) Soil testing for each lot.

59 Prior to the issue of any Subdivision Certificate, a Maintenance Bond is to be lodged with Penrith City Council for the construction of a new signalised intersection and the associated works within the existing (Luddenham) Road Reserve.

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

Note: Please contact Penrith City Council's Development Engineering Department on 4732 7777, for further information relating to bond requirements.

Landscaping

60 Tree removal is to be limited to the trees indicated for removal on the stamped approved Civil Engineering Drawings (prepared by Enspire Solutions P/L).

All landscape works are to be completed by a suitably qualified and experienced landscape professional, in accordance with the stamped approved Landscape Plan.

Site landscaping is to be maintained in accordance with the approved Landscape Plan, in a healthy state.

- 61 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.
- 62 All trees that are required to be retained as part of the development are to be protected in accordance with Penrith Development Control Plan 2014 - Appendix F4 – Technical Information under supervision by a suitably qualified Consulting Arborist.
- 63 Certain tree species placed in proximity to Sydney Water's underground assets have the potential to inflict damage through invasive root penetration and soil destabilisation. Section 46 of the Sydney Water Act specifies what might occur when there is interference or damage to our assets caused by trees.

For any trees proposed or planted that may cause destruction of, damage to or interference with our work and are in breach of the Sydney Water Act 1994, Sydney Water may issue an order to remove that tree or directly remove it and seek recovery for all loss and associated compensation for the removal.

For guidance on types of trees that can cause damage or interference with our assets see Sydney Water webpage Wastewater blockages. For guidance on how to plant trees near our assets, see Diagram 5 – Planting Trees within Sydney Water's Technical guidelines – Building over and adjacent to pipe assets.

- 64 Prior to the issue of a Subdivision Certificate, a Landscaping Implementation Report, prepared by a suitably qualified and experienced landscape professional, must be submitted to the Principal Certifying Authority, attesting to the satisfactory completion of the landscaping works.

Subdivision

- 65 Prior to the issue of the Subdivision Certificate, the following is to be submitted:
- a) An original plan of subdivision and associated administration sheets. The plan of subdivision must indicate, where relevant -
- All drainage easements, rights of way, restrictions and covenants.
 - All proposed dedications of roads/drainage/public reserve, which are to be undertaken at no cost to Penrith City Council.
- b) 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.

66 Prior to the issue of a Subdivision Certificate, the final Plan of Subdivision is to be supported by an '88B Instrument' creating a 'Restriction as to User', regarding the following:

- Residue Allotments (Lot 104, Lot 105 & Lot 106) - Stipulating that no development, land use or building, shall be allowed or be permitted on Lot 104, Lot 105 & Lot 106, other than those lawfully existing, unless satisfactory arrangements have been made with Penrith City Council for necessary services (such as water, sewer, electricity and / or telephone), and that any applicable contributions have been paid.

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

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

Development Contributions

68 Prior to the issuing of any Subdivision Works Certificate associated with the development, a Traffic Report must be provided to and endorsed by the Head of City Planning, Penrith City Council, in line with Clause 11 of the varied Sydney Science Park Voluntary Planning Agreement (amended VPA).

In line with Clause 11 (b) of the amended VPA, should the Traffic Report identify that, as a result of the development, the full monetary contribution outlined in Table D, Schedule 5 is required by 1 January 2026 the Developer must pay the balance of the monetary contribution set out in Table D, Schedule 5 by 1 January 2026.

69 This condition is imposed in accordance with the Penrith Aerotropolis Development Contributions Plan 2023 (Section 7.12).

A Cost Estimate is to be prepared by a Quantity Surveyor (who is a registered member of the Australian Institute of Quantity Surveyors), calculating the cost of the works to be carried out on the land to which the Penrith Aerotropolis Development Contributions Plan 2023 applies (i.e. the works within the existing Road Reserve of Luddenham Road, Lot 205 in DP 1280188, Lot 24 in DP 1277418 and Lot 26 in DP 1277418). The Cost Estimate must be provided to and endorsed by the Head of City Planning, Penrith City Council, and the respective contribution (being 5.6% of that cost) paid to Penrith City Council, prior to the issuing of any Subdivision Works Certificate.

Prior to the issue of a Subdivision Certificate, a post completion review of construction costs, prepared by a Quantity Surveyor (who is a registered member of the Australian Institute of Quantity Surveyors) or a Chartered Professional Accountant, is to be provided to Council specifying the actual cost of works. Where the actual cost of works exceeds that for which the contributions were calculated pre-development, the shortfall is to be paid prior to the issue of the Subdivision Certificate.

Note: Council will not consider the reimbursement of contributions where costs have reduced.

- 70 A special infrastructure contribution must be made in accordance with the *Environmental Planning & Assessment (Special Infrastructure Contribution - Western Sydney Aerotropolis) Determination 2022* (as in force when this development consent takes effect).

A person may not apply for a subdivision certificate or construction certificate (as the case may require, having regard to the Determination) in relation to development the subject of this development consent unless the person provides, with the application, written evidence from the Department of Planning and Environment that the special infrastructure contribution for the development (or that part of the development for which the certificate is sought) has been made or that arrangements are in force with respect to the making of the contribution.

Note:

Pursuant to Section 7 of the *Environmental Planning & Assessment (Special Infrastructure Contribution - Western Sydney Aerotropolis) Determination 2022*, the development may be exempt from the Special Infrastructure Contribution, should the Planning Secretary certify such (in writing).

- 71 Prior to the issuing of a Subdivision Certificate, suitable evidence and documentation must be provided demonstrating that any obligations of the Landowner / Developer made in the State Planning Agreement (executed in 2016) which applies to the broader Sydney Science Park, that are relevant to the overall development, have been satisfied.