

MEMORANDUM

SWCPP Reference: PPSSWC-488

Council Reference: DA24/0009

To: Sydney Western City Planning Panel

From: Robert Walker – Senior Development Assessment Planner

Date: 19 November 2024

Subject: 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

I refer to the above Development Application which was considered by the Sydney Western City Planning Panel (the Panel) on 19 November 2024.

This supplementary memorandum provides text which is missing from Council's Assessment Report and discussion in relation to agreement from the Applicant to recommended conditions.

As outlined during the final Panel briefing, it was identified that text addressing assessment of the proposal to the applicable provisions of the *Western Sydney Aerotropolis Plan*, the *Western Sydney Aerotropolis Precinct Plan*, the *Western Sydney Aerotropolis Development Control Plan 2024*, *Recognise Country. Guidelines for Development in the Aerotropolis* and *Aviation Safeguarding Guidelines – Western Sydney Aerotropolis and Surrounding Areas*, was missing from the generated version of Council's Assessment Report which was provided to the Panel and published on the Planning Panel website / register.

Therefore, the following should be considered in relation to such and read in conjunction with Council's Assessment Report.

Western Sydney Aerotropolis Plan

The site is located within the 'Northern Gateway Precinct', which is an 'initial precinct' (as identified by the Western Sydney Aerotropolis Plan).

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.

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Overall it is considered that the proposal is consistent with the themes and objectives of the Western Sydney Aerotropolis Plan, including associated 'Strategic Outcomes' and 'Implementation Strategies'.

Western Sydney Aerotropolis 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.

It is considered that the proposal is satisfactory having regard to the provisions of Part 2.5, which specially relates to the 'Northern Gateway Precinct' and Part 4, which relates to the 'Urban Structure' across the Aerotropolis (including established noteworthy matters of an 'Active Transport Network' and the 'Street Hierarchy Map'), and to be consistent with the overall Western Sydney Aerotropolis Precinct Plan 2024.

Western Sydney Aerotropolis Development Control Plan 2024

The Western Sydney Aerotropolis Development Control Plan 2024 applies to the site and the following key matters are noted in relation to the proposal:

Part 2.1 Recognise Country

As the development site is not located within an area identified as being of moderate or high Aboriginal Sensitivity and is approximately 4 hectares in size (i.e. less than 20 hectares), the proposal does not constitute a development requiring engagement with Aboriginal stakeholders.

Notwithstanding this, the application was accompanied by an Aboriginal Heritage Due Diligence Assessment Report and an associated addendum letter (dated 17 July 2023), which concluded that no extant Aboriginal archaeological sites or Aboriginal objects exist within the development site, and that no Aboriginal heritage is to be impacted upon by the proposal. Furthermore, the site has been subject to substantial ground disturbance, associated with the existing road corridor (including buried

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services within the Road Reserve) and other recent civil construction works.

Given the overall attributes of the site and the proposed development (including the associated earthworks), it is considered that such provides for an outcome which is consistent with the cultural values and landscape elements of the broader area.

Part 2.2.2 Non-Aboriginal and European Heritage

The Road Reserve portion of the development site previously formed part of the 'Luddenham Road Alignment' Heritage Item (No. 843) under the Penrith Local Environmental Plan 2010. Accordingly, given the attributes of such and the nature of the development, it is recommended that a condition be imposed requiring the making of an Archival Recording.

Part 2.3 Stormwater, Water Sensitive Urban Design and Integrated Water Management

It is noted that while a 'mapped first order Strahler stream' dissects the development site, the Natural Resources Access Regulator (being the NSW Government Department previously responsible for administering 'Controlled Activity Approval' matters in relation to development on waterfront land pursuant to Section 91 of the Water Management Act 2000) have approved a Vegetation Management Plan associated with Development Application No. DA18/0569 (pursuant to the General Terms of Approval, issued on 28 August 2018) confirming that such does not constitute a 'river' under the Water Management Act 2000.

The proposal specifically relates to the upgrading of a 600m section of Luddenham Road (including the provision of additional traffic lanes) and the provision of a new / 'interim' signalised intersection (for an identified / future 'Sub-Arterial Road' to the west). The stormwater discharge and water sensitive design provisions essentially relate to build form and associated site servicing type developments, which will ultimately be connected to the future planned Sydney Water Regional Stormwater Network. Assessment of the proposal, including by Sydney Water, Council's Senior Water Management Officer and Council's Senior Development Engineer, has found that the proposed development is unlikely to adversely impact upon the water quality or quantity in any waterway,

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natural water flows, the aquatic environment or the stability of any waterway.

Notwithstanding this, it is recommended that erosion and sediment control related conditions be imposed to protect waterway quality.

Part 2.4 Vegetation and Biodiversity

The proposal does not impact upon trees beyond the identified future 60m wide alignment of Luddenham Road. Notwithstanding this, in order to minimise any potential impact upon adjacent conservation type areas and / or threatened species, and to also generally improve environmental outcomes, it is recommended that conditions be imposed in response to the 'Mitigation Measures' provided within the accompanying Flora and Fauna Assessment Report.

Overall the proposal is considered to be satisfactory from a biodiversity perspective.

In relation to the provision of landscaping it is noted that such is limited to low shrubs and ground covers within the central medians of the proposed intersection. While the provisions anticipate the delivery of passively irrigated street trees within Road Reserves, given that the proposed widened Luddenham Road alignment is only an interim measure ahead of any established design plans for the future overall Luddenham Road upgrade, it is considered that such is appropriate in this regard.

Part 2.5 Flooding and Environmental Resilience Management

The benchmark solutions predominantly relate to built form outcomes and do not contemplate the type of development proposed, which provides for upgrades to an existing public road, an 'interim' intersection' for an identified / future 'Sub-Arterial Road' and a categorised as infrastructure works.

Specialist Engineering assessment of the proposal has found that the proposal is satisfactory from stormwater, flooding, waterway health and salinity perspectives, subject to associated recommended conditions, including in relation to 'geotechnical testing' during earthworks, and the implementation of erosion and sediment control measures.

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Part 2.6 Road Design for Arterial and Sub-Arterial Roads

The proposed development provides for the rationalisation of access points to / from Luddenham Road, by facilitating connection to service development upon the broader Sydney Science Park site, via a network of future local streets to be established in accordance with the 'Street Hierarchy Map' of the Western Sydney Aerotropolis Precinct Plan 2024. It is noted that the proposed arrangement, including of the signalised intersection is an 'interim' measure ahead of the upgrading of Luddenham Road, which is expected to be delivered by Transport for NSW (in accordance with the Western Sydney Aerotropolis Special Infrastructure Contributions Direction) and that Transport for NSW have provided 'Concurrence' to such.

The application has been accompanied by a detailed Traffic and Transport Assessment Report, which included an analysis of vehicular traffic matters associated with the proposal, including in relation to the efficiency of the road system.

The proposal layout has been designed with an intention to adopts as much of the ultimate signalised kerbs, pavements and levels as is feasible within the constrained frontage of the Sydney Science Park land, while incorporating temporary transitions to match Luddenham Road in its existing state (to the north and to the south).

Assessment of the proposal, including by Council's Senior Traffic Engineer and Council's Senior Development Engineer found the proposal to be satisfactory from a traffic perspective, subject to associated conditions being imposed. While final comments provided by Transport for NSW raised no concerns with the proposal. Notwithstanding this, it is noted that the overall development will be subject to further 'Roads Act Approvals' from Transport for NSW (under Section 87 of the Roads Act 1993, for the traffic control lights / signals) and from Council (under Section 138 of the Roads Act 1993, for the works within the Road Reserve of Luddenham Road).

Part 2.10 Airport Safeguarding

The site is located within 6km of the Western Sydney International Airport, and while given the overall location and scale of the development, that such is not likely to impact upon aviation operations, it is recommended

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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.

Furthermore, the proposed landscaping involves the provision of landscaping from the list of suitable landscape species applicable to the location (as provided by Appendix B of the Western Sydney Aerotropolis Development Control Plan 2024).

Part 2.11 Services and Utilities

The overall layout provides opportunities for shared utility trenches within a compact area of the street verge. While it is recommended that a condition be imposed requiring electricity supplies to be located underground within the verge area.

Part 2.17 Subdivision

The proposed finished levels respond to the natural topography and physical characteristics of the area, and suitable transitions alongside road carriageways and adjacent to lot boundaries.

Part 2.18 Earthworks and Retaining Walls

While the overall layout responds to the natural topography and physical characteristics of the area and facilitates suitable transitions into the existing alignment of Luddenham Road to the north and south of the development site, the provision of a retaining wall along the eastern side of the road is not supported.

The retaining wall, which is to support fill, is approximately (up to) 4m high and is located within the future 60m wide alignment of Luddenham Road (being immediately alongside the eastern edge of such). In accordance with Council's Engineering Construction Specification for Civil Works all retaining walls must be constructed on future private lands and such would not be facilitated by Council as part of the applicable Section 138 Roads Act Application. Accordingly, it is recommended that a condition be imposed requiring the retaining wall (and the associated headwall) to be repositioned (through the submission of amended plans with the Subdivision Works Certificate Application) to be fully outside the 60m wide future Road Reserve area for Luddenham Road.

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Furthermore, it is noted that overall assessment of the proposal (including specialist Engineering assessment) has found that the proposal is satisfactory from civil engineering and salinity perspectives, subject to associated recommended conditions, including in relation to 'geotechnical testing' during earthworks.

Part 3.1 Local Road Network and Design

The proposed development is consistent with the 'Street Hierarchy Map' provided within the Western Sydney Aerotropolis Precinct Plan 2024 and facilitates the delivery of associated future collector and local streets.

Part 4.1 Road Network and Design

The proposed development is consistent with the 'Street Hierarchy Map' provided within the Western Sydney Aerotropolis Precinct Plan 2024 and facilitates the delivery of associated future collector roads and local streets, within the 'Sydney Science Park' ahead of the upgrading of Luddenham Road.

Part 4.2.6 Development in Walking Catchment of Mass Transit

The proposed development does not compromise the ability for the development of sites adjoining and within the immediate of the Luddenham Metro Station to integrate with such.

Furthermore in this regard it is noted that Sydney Metro have given 'Concurrence' to the proposed development.

Recognise Country: Guidelines for Development in the Aerotropolis

Given that the proposed development is subject to the design excellence provisions of State Environmental Planning Policy (Precincts - Western Parkland City) 2021 (i.e. the Development Applications progressing under the design excellence process), consideration is to be given to Recognise Country: Guidelines for Development in the Aerotropolis. Notwithstanding this, given that the development site is not located within an area identified as being of moderate or high Aboriginal Sensitivity, and is approximately 4 hectares in size (i.e. less than 20 hectares), the proposal is not subject to any specific documentation requirements provided for within Part 1.2.3 or engagement provisions.

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Notwithstanding this, the application has been accompanied by an Aboriginal Heritage Due Diligence Assessment Report and an associated addendum letter (dated 17 July 2023), which concluded that no extant Aboriginal archaeological sites or Aboriginal objects exist within the development site, and that no Aboriginal heritage is to be impacted upon by the proposal.

The site has been subject to substantial ground disturbance, associated with the existing road corridor (including buried services within the Road Reserve) and other recent civil construction works. Furthermore, adjacent lands have also been disturbed by previous land clearing activities. Given the overall attributes of the site and the proposed development (including the associated earthworks), it is considered that such provides for an outcome which is consistent with the cultural values and landscape elements of the broader area, and the applicable provisions of Recognise Country: Guidelines for Development in the Aerotropolis.

It is noted that the accompanying Aboriginal Heritage Due Diligence Assessment Report, recommended that given the proposed works overlap an area which has previously been assessed for Aboriginal cultural heritage values and which is covered under an existing Aboriginal Heritage Impact Permit (No. C0003861), that any works undertaken within the Aboriginal Heritage Impact Permit area be undertaken in accordance with such. Accordingly it is recommended that a condition be imposed requiring such.

Aviation Safeguarding Guidelines - Western Sydney Aerotropolis and Surrounding Areas

Given the location, and overall nature and scale of the development, it is considered that such is not likely to impact upon aviation operations and to be consistent with the applicable provisions of Aviation Safeguarding Guidelines - Western Sydney Aerotropolis and Surrounding Areas.

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.

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Furthermore, following finalisation of Council's Assessment Report, the Applicant engaged with Council in relation to the recommended conditions, which were attached to such. This resulted in Council reconsidering several of the conditions.

The following adjustment to the recommended conditions were provided to the Applicant, who has confirmed support (by email dated 19 November 2024) to such.

1. Amend Condition No. 1

Add bullet point, to reference the associated Subdivision Plan to the 'stamped approved plans', as follows:

- Plan of Proposed Subdivision, prepared by Proust & Gardner P/L, Sheets 1 of 2 & 2 of 2, Plan No. 23360-LRW, Issue A, dated 12 May 2023

2. Replace Condition No. 2

Replace as follows:

2. Prior to the issue of a Subdivision Works Certificate, the detailed design provided to the Certifying Authority must clearly label the retaining wall and associated headwall proposed along the eastern edge of the development site as being 'temporary'.

The temporary retaining wall and associated headwall will be removed by others when Lot 24 DP 1277418 is developed or when Luddenham Road is upgraded by Transport for NSW, whichever occurs first.

3. Delete Condition No. 66

Condition No. 66 is unnecessary.

4. Replace Condition No. 68

Replace as follows:

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68. Prior to the issuing of any Subdivision Works Certificate associated with the development, suitable evidence and documentation must be provided demonstrating that any obligations of the Landowner / Developer made in the varied Sydney Science Park Voluntary Planning Agreement (amended VPA) which applies to the broader Sydney Science Park, which are relevant to the overall development, have been satisfied.

In line with Clause 11 of the amended VPA, a Traffic Report must be provided to and endorsed by the Head of City Planning, Penrith City Council, prior to the issuing of any Subdivision Works Certificate.

5. Replace Condition No. 69

Replace as follows:

69. This condition is imposed in accordance with the Penrith Aerotropolis Development Contributions Plan 2023 (Section 7.12), only where relevant to the proposed works.

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. 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.

6. Replace Condition No. 70

Replace as follows:

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).

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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 and / or Section 19 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).