

WESTERN REGIONAL PLANNING PANEL

PP No	PP Reference Number: PPSWES-11
DA Number	2018/395
Local Government Area	Bathurst Regional Council
Proposed Development	205 lot residential subdivision and associated new roads
Street Address	Colville Street, Windradyne
Applicant/Owner	Bathurst Regional Council (applicant) Bathurst Regional Council (owner)
Number of Submissions	Zero (0)
Recommendation	Approval with Conditions
Report by	Daniel Dwyer, Senior Development Control Planner

Attachment Number	Description
1	Draft Consent
2	Location Plan and Aerial
3	DA Plans
4	Statement of Environmental Effects
5	Stormwater Report
6	Traffic Impact Assessment
7	Civil Development Application Report
8	Flora and Fauna Assessment
9	Zone overlay
10	Landscape concept design for the Sawpit Creek Open Space Reserve
11	DCP Map No. 5
12	Correspondence – NRAR, NSW Fisheries, Essential Energy, NSW Police and TfNSW.

RECOMMENDATION AND ASSESSMENT REPORT

Development Application Information

Application No: 2018/395
Applicant: Bathurst Regional Council
Property: Lot 1126, DP 1215618 & Lot 38, DP 1055620, Colville Street & Richardson Street, Windradyne
Proposal: 205 lot residential subdivision and associated new roads

Purpose of Report

The purpose of this report is to seek determination from the Western Regional Planning Panel of Development Application for a 205 lot residential subdivision and associated new roads at Lot 1126, DP 1215618, Colville Street, Windradyne and Lot 38, DP 1055620, Richardson Street, Windradyne.

Recommendation

That the Western Regional Planning Panel grant consent to Development Application 2018/395 for:

205 LOT RESIDENTIAL SUBDIVISION AND ASSOCIATED NEW ROADS

Subject to conditions included in the Draft Notice of Determination (see **attachment 1**) with any further conditions or amendments as determined appropriate by the Director Environmental Planning & Building Services pursuant to Section 4.17 of the Environmental Planning and Assessment Act 1979, as amended.

Executive Summary

The proposal is for a residential subdivision with 205 lots and associated new roads on the western edge of the City of Bathurst in the suburb of Windradyne.

The proposed development is a Council development (that is Council is the land owner and developer of the land) with a capital investment value (CIV) of over \$5 million. The proposed development is listed under Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011 and accordingly the Regional Planning Panel is the consent authority.

The subject site is a greenfield site zoned R1 General Residential and RE1 Public Recreation. The layout of the proposed subdivision is generally consistent with the zone boundaries.

The subject site has frontage to Colville Street, Richardson Street and the Mitchell Highway. It should be noted that no direct vehicular access to the Mitchell Highway is proposed although future access is noted on the adopted DCP for the land. Access to the subdivision until that time will be via extensions of Governors Parade and Richardson Street.

The subject site is bound by established residential areas to the north and east, the Mitchell Highway to the south and agricultural land to the west.

Tributaries of Sawpit Creek traverse the subject site. The centreline of Sawpit Creek forms the western boundary of the subject site. Stormwater from the subdivision will discharge to Sawpit Creek although no direct works are proposed to Sawpit Creek itself by this development. Works will be undertaken in the tributaries of Sawpit Creek.

While the subject site is predominately open grassland there is a stand of mature native trees at the northern end of the site adjacent to Colville Street. There is a small number of isolated mature native trees throughout the site. The riparian corridor along Sawpit Creek is vegetated.

The average lot size in the proposed subdivision is 776m². All of the proposed lots are regular lots with street frontage – no battle-axe lots are proposed.

The proposed subdivision can be serviced with water, sewer, stormwater and electricity with the augmentation of existing infrastructure in the vicinity of the development site. Council's Section 7.11 (formerly Section 94) Contributions Plan for Sawpit Creek Stormwater Management makes provision for some of the stormwater works included in the proposal. The site is traversed by a number of overhead electricity lines which will be relocated and laid underground as part of the development.

The proposal was advertised and notified to adjoining property owners for a period of 30 days between 2 September 2019 and 1 October 2019. No public submissions were received during the exhibition period.

The proposal was referred to Natural Resources Access Regulator, Department of Primary Industries – Fisheries and Transport for NSW, Essential Energy and NSW Police and responses have been received from each of these agencies.

The Subject Land

The subject land is comprised of two lots being Lot 1126, DP 1215618, Colville Street, Windradyne and Lot 38, DP 1055620, Richardson Street, Windradyne.

See location plan and aerial photo at **attachment 2**.

The total area of the subject site is 41.917 hectares.

The subject site is zoned R1 General Residential and RE1 Public Recreation.

The subject site has frontage to Colville Street, Richardson Street and the Mitchell Highway.

The subject site is bound by established residential areas to the north and east, the Mitchell Highway to the south and agricultural land to the west.

Tributaries of Sawpit Creek traverse the subject site from the south and east. The centreline of Sawpit Creek itself forms the western boundary of the subject site.

While the subject site is predominately open grassland there is a stand of mature native trees at the northern end of the site adjacent to Colville Street. There is a small number of isolated mature native trees throughout the site. The riparian corridor along Sawpit Creek is vegetated with mature trees, juvenile trees and shrubs.

The site is traversed by a number of overhead powerlines.

The highest elevation of the subject site is 710 metres and the lowest 678 metres.

Proposed Development

The proposal is for a 205 lot residential subdivision and associated new roads on the western edge of the City of Bathurst in the suburb of Windradyne.

It should be noted that no direct vehicular access to the Mitchell Highway is proposed. Access will be via extensions of Governors Parade and Richardson Street. The development is likely to progress in stages.

The average lot size is 776m². All of the proposed lots are regular lots with street frontage – no battle-axe lots are proposed.

See plans of proposed development at **attachment 3**.

See Statement of Environmental Effects at **attachment 4**.

See Stormwater Report at **attachment 5**.

See Traffic Report at **attachment 6**.

See Civil Development Application Report at **attachment 7**.

See Flora and Fauna Assessment at **attachment 8**.

Legislative Requirements

Water Management Act 2000

The proposed development was initially considered as Integrated Development for the purposes of the Water Management Act 2000 and referred to Natural Resources Access Regulator (NRAR).

Council is however exempt from requiring a Controlled Activity Approval (CAA) under Subdivision 4 *Exemption from requirement for controlled activity approval* of the Water Management (General) Regulation 2018 for the proposed works on waterfront land.

As a Controlled Activity Approval is not required, General Terms of Approval have not been issued by Natural Resources Access Regulator (NRAR). NRAR have however provided comments in relation to the application noting that:

- Sawpit Creek is considered to be an unstable system which is in a state of decline due largely to increased pressure from development. The nature of the soils within and along Sawpit Creek are highly erodible and therefore any disturbance should be kept to a minimum. Stormwater should be managed on site adequately before discharging into creek. Onsite stormwater detention basins are generally recommended.
- It is recommended the design and construction footprint and extent of disturbance within the riparian corridor should be minimised. Channels/drains to convey stormwater within a riparian zone to the watercourse are generally not supported. Where channels/drains are absolutely necessary, Council will need to demonstrate the stability of the channel/drain and discharge point. Council is reminded of the impact caused to the riparian zone and Sawpit Creek as a result of mismanaged stormwater adjacent to Munro Street.
- It is noted that there are three first order watercourse on the subject site which are proposed to be realigned. NRAR has concerns with the management of water into Sawpit Creek, particularly though the culvert C5 at the Colville Street end. It is not clear why C5 is not directed into the natural channel which flows to the north to minimise disturbance.
- Stormwater discharge is to be at a stable section of the creek, midway between bends with adequate dissipation structures in place.
- Stormwater outlet is to be set at the base of the watercourse or grade scour apron to bed level of the watercourse.
- Stormwater outlet to be pointed down stream with adequate and appropriately sized rip rap installed.
- It is noted that Sawpit Creek will experience an increase in post development flows as a result of the development. It is recommended that consideration be given to the adequacy of the infrastructure to manage on site stormwater and the installation of on site detention basins.

It is noted that these comments relate to an earlier draft of the plans. In this regard the plans have been amended to incorporate the recommendations made by NRAR. Notably this includes re-orientating the majority of the stormwater through the existing on-site dam and through the existing discharge points into Sawpit Creek. The dams may have the additional benefit of providing on-site detention within this area. Discharge points are generally below the highly eroded upper reaches of Sawpit Creek.

Although Council is exempt from requiring a CAA, it is Councils responsibility to carry out any works in line with the Water Management Act 2000 and NRAR guidelines for works on waterfront land.

Fisheries Management Act 1994

The proposed development was initially considered as Integrated Development for the purposes of the Fisheries Management Act 1994 and was subsequently referred to the Department of Primary Industries (DPI) – Fisheries.

As the tributaries of Sawpit Creek that traverse the development site are only 1st order streams General Terms of Approval are not required to be issued by DPI – Fisheries.

Environmental Planning & Assessment Act 1979 – Section 4.15 Evaluation **4.15(a)(i) Any environmental planning instrument**

State Environmental Planning Policy (State and Regional Development) 2011

The proposed development is a Council development with a CIV of over \$5 million. The proposed development is listed under Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011 and accordingly the Regional Planning Panel is the consent authority.

State Environmental Planning Policy (Infrastructure) 2007

Division 5 Electricity transmission and distribution

The property is traversed by a number of overhead powerlines which will be relocated and laid underground as necessary.

The proposal was referred to Essential Energy (as the responsible authority). Essential Energy has provided comments noting there is no significant issues with the proposal. A copy of the Essential Energy comments is provided at **attachment 12**.

Division 17 Roads and Traffic

Under State Environmental Planning Policy (Infrastructure) 2007 subdivisions with 200 or more allotments are identified as being traffic generating development and require referral to Transport for NSW (formerly RMS).

It should be noted that no direct vehicular access to the Mitchell Highway is proposed. All access will occur via Colville Street/Governors Parade and Richardson Street.

The proposal was referred to Transport for NSW (TfNSW) under Clause 104 of State Environmental Planning Policy (Infrastructure) 2007 and also under Section 138 of the Roads Act 1993.

TfNSW have advised that it is willing to grant its concurrence to the proposal, pursuant to Section 138(2) of the Roads Act 1993, subject to the following conditions being met:

- A sealed (bitumen or concrete) off-road shared cycleway path is to be provided along the Mitchell Highway, connecting the existing paths at Bradwardine Road and Dean Street, prior to any Subdivision Certificate. The detailed design is to be in accordance with Austroads standards and concurrence to the detailed design obtained from TfNSW prior to the commencement of construction.

Advice: The developer proposed a cycleway link along Dean Street between Suttor Street and the Mitchell Highway, however TfNSW supports a route that uses the

arterial road network as it would ultimately serve a wider urban catchment and have high legibility and so is likely to take more vehicle trips off the network.

- Prior to any Subdivision Works Certificate, the developer shall obtain approval in writing from TfNSW as to the extent of Mitchell Highway road reserve widening (if any) required for purposes such as:
 - Planned highway safety program improvements adjacent to the site,
 - Adequate roadside area including recovery area for errant vehicles, and/or
 - Strategic planning initiatives, such as (but not limited to) future intersection locations on the highway for a potential southern town centre bypass or access between the highway and adjoining subdividable land.
- The design and minimum setback distance of residential lots from the highway is to be modified to suit. The road widening land required by TfNSW shall be dedicated as public road reserve prior to any Subdivision Certificate release for the adjacent lots, at no cost to TfNSW.

The foreshadowed cycleway link between Bradwardine Road and Dean Street will entail a connection of some 700-800 metres depending on the final alignment. The alignment will need to be subject to further investigations as to the appropriate route given the need to accommodate the narrow road shoulder on the northern side of Vittoria Street, the adjoining cemetery and the need to accommodate any future (unknown) TfNSW plans for widening/upgrading in this area. Whilst it is noted that TfNSW has advised that the works be designed prior to works commencing and undertaken prior to release of any lots it is likely, in a practical sense, that there will need to be further discussions as to the timing of works.

State Environmental Planning Policy No. 55 – Remediation of Land

The subject has historically been used for grazing. The subject site is not identified on Council's Contaminated Land Information System and there is no evidence to suggest past contaminating land uses. A preliminary site investigation is therefore not required.

Bathurst Regional Local Environmental Plan 2014

The following clauses of Bathurst Regional Local Environmental Plan 2014 have been assessed as being relevant and matters for consideration in assessment of the Development Application.

Land Use Table

The subject site is zoned R1 General Residential and RE1 Public Recreation. The objectives of the zone R1 General Residential zone are as follows:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide housing choice and affordability by enabling opportunities for medium density forms of housing in locations and at densities that complement the surrounding residential environment.*
- *To protect and conserve the historic significance and scenic quality of the urban villages of Eglinton, Raglan and Perthville.*

- *To enable commercial development that is compatible with the amenity of the area and does not prejudice the status and viability of the Bathurst central business district as the retail, commercial and administrative centre of Bathurst.*

The objectives of the RE1 Public Recreation are as follows:

- *To enable land to be used for public open space or recreational purposes.*
- *To provide a range of recreational settings and activities and compatible land uses.*
- *To protect and enhance the natural environment for recreational purposes.*
- *To protect and conserve the historical and scenic quality of Bathurst's open space areas.*
- *To provide a network of open space that encourages walking and cycling.*

The proposal is not inconsistent with the objectives of either zone.

The proposal, while not specifically defined under the Bathurst Regional Local Environmental Plan 2014, is being assessed as *residential subdivision*. Residential subdivisions are permissible with consent in the R1 General Residential zone.

The subdivision aligns with the underlying land zoning. See zone overlay of proposed subdivision at **attachment 9**.

Clause 4.1 Minimum subdivision lot size

The Lot Size Map for this locality identifies a subdivision minimum lot size of 550m² for regular lots. The proposed subdivision does not include any battle-axe lots. Each of the proposed regular lots has an area in excess of 550m².

Clause 5.10 Heritage conservation

European Heritage

There are no Heritage Items on or in the vicinity of the subject site.

Aboriginal Heritage

No Aboriginal sites or places have been identified on or in the vicinity of the subject site. While no Aboriginal sites or places have been identified, the proximity of the site to watercourses means that it is potentially an archaeologically sensitive area. An Aboriginal Due Diligence Assessment, prepared by NGH, dated April 2020, has been submitted with the Development Application.

The Assessment concludes that:

“... the area does not require further investigation and assessment. It has been assessed that the proposed works are unlikely to harm any Aboriginal objects”.

The Assessment makes the following recommendations:

1. *All works must be within to the assessed subject site and any activity proposed outside of the current assessment area should also be subject to an Aboriginal heritage assessment.*
2. *If any items suspected of being Aboriginal in origin are discovered during the work, all work in the immediate vicinity must stop and DPIE notified. The find will*

need to be assessed and if found to be an Aboriginal object an AHIP may be required.

3. *In the unlikely event that human remains are identified during development works, all work must cease in the immediate vicinity and the area must be cordoned off. The proponent must contact the local NSW Police who will make an initial assessment as to whether the remains are part of crime scene or possible Aboriginal remains. If the remains are thought to be Aboriginal, DPIE must be notified by ringing the Enviroline 131 555.*

Clause 7.3 Airspace operations

While the subject site is within the Bathurst Airport environs, the proposal is for subdivision and road construction only and does not include any structures that could potentially exceed the Limitation or Operations Surface.

The highest elevation of the subject site is 710 metres and the lowest 678 metres. The Limitation or Operations Surface above the subject site is between 879.5 metres and 920.4 metres. A minimum clearance of 169.5 metres is therefore available for future structures. Pursuant to *Clause 4.3 Height of Buildings* a maximum height limit of 9 metres would apply to all new buildings.

Clause 7.5 Essential services

Supply of water

Existing water mains in Governors Parade and Richardson will be extended into the proposed subdivision.

Supply of electricity

Preliminary investigations indicate that the proposed development can be serviced with existing and proposed electricity infrastructure. Some existing overhead powerlines traversing the subject site will be relocated clear of the proposed lots.

Sewage management

There is an existing 375mm trunk sewer main adjacent to Sawpit Creek to the west of the development site. All new sewer mains will be gravity fed to this trunk sewer main.

Stormwater drainage

Road and interallotment drainage from the proposed subdivision will be collected in a new piped drainage system and will be conveyed to new open drainage channels immediately to the north and west of the development site. The new drainage channels will ultimately discharge to Sawpit Creek. Appropriate discharge outlets, energy dissipating structures and Gross Pollutant Traps (GPTs) will be constructed.

Vehicular access

Governors Parade and Richardson Street will be extended to provide access to the proposed subdivision. New internal roads will intersect with the Governors Parade and Richardson Street extensions.

4.15(a)(ii) Any draft environmental planning instrument

No draft environmental planning instruments apply to the proposed development or to the subject site.

4.15(a)(iii) Any development control plan

Bathurst Regional Development Control Plan 2014

Chapter 3 Subdivision of land

Section 3.3.1 Electricity and telephone services

Preliminary investigations indicate that the proposed development can be serviced with existing and proposed electricity and telecommunications infrastructure. Such infrastructure will be installed underground.

Street lighting will be provided in accordance AS1158.

Section 3.3.2 Roads

Access to the proposed subdivision will be via a new internal road network that will extend and branch off Governors Parade and Richardson Street, both of which are existing collector roads.

Road Name/Number	Status/Comment
Governors Parade	Collector road – 20 metre road reserve
Richardson Street	Collector road – 20 metre road reserve
Proposed Road 1	Local Access Road – 17 metre road reserve
Proposed Road 2	Local Access Road – 17 metre road reserve
Proposed Road 3	Collector Road – Proposed Road 3 will be a divided boulevard with landscaped centre median within a 30 metre road reserve as it will link with the Mitchell Highway in the future.
Proposed Road 4	Local Access Road – 17 metre road reserve
Proposed Road 5	Local Access Road – 17 metre road reserve
Proposed Road 6	Local Access Road – 17 metre road reserve

Proposed Road 3 will not connect with the Mitchell Highway at this stage although future connection is shown on the adopted DCP for the area.

Section 3.3.3 Drainage

Road and interallotment drainage from the proposed subdivision will be collected in a new piped drainage system and will be conveyed to new open drainage channels immediately to the north and west of the development site. The new drainage channels will ultimately discharge to Sawpit Creek. Appropriate discharge outlets, energy dissipating structures and Gross Pollutant Traps (GPTs) will be constructed.

Generally, the discharge points to Sawpit Creek will be via the existing drainage lines connecting to the Creek.

Newly constructed drainage channels are proposed adjoining the western boundary of Richardson Street and the northern boundary of “Road 01”. Under the current proposal these newly constructed drainage channels are to include low flow pipes. This concept is consistent with Council’s current adopted Engineering Guidelines and is in line with some of the historic treatments provided in the residential areas. This includes the drainage line

upstream of the new channel adjoining “Road 01”. The benefit from an engineering perspective of this approach is that it maintains the channel as a normally dry bed and allows ease of maintenance from a mowing perspective. The benefit of an open drainage line is that it provides for improved environmental outcomes.

The tension between the two approaches is not always easily resolved however it is considered that the subdivision has been improved significantly from earlier iterations by retaining as much of the natural drainage lines as possible. Notably this includes the existing drainage channel adjoining Colville Street and the connections to Sawpit Creek. In line with this approach, it is proposed that a condition be imposed requiring these two drainage lines be constructed as open grass line channels as opposed to low flow pipes.

Works are proposed to improve the structure and integrity of the existing dam on site. The works include:

- Draining the dam;
- Cutting a slot through the dam wall and stockpiling excavated material;
- Placing a low flow pipe and reconstructing the dam wall;
- Shaping a spillway from the dam and laying geotextile and rock armouring; and
- Revegetation and stabilisation.

Road No 3 has been designed to incorporate elements of Water Sensitive Urban Design (WSUD) to assist with the removal of gross pollutants and coarse sediments.

Interallotment drainage will be designed for a 20% AEP flood event and trunk drainage for a 1% AEP flood event.

Council’s Section 7.11 (formerly Section 94) Contributions Plan for Sawpit Creek Stormwater Management makes provision for the following works within the development site:

Channel	Identified Works
C2	Open grass lined channel with 450 diameter low flow C2. Total Length 880m. Estimated Cost \$244,000 (1995 figure). 0 % Complete.
C3	Open grass lined channel with 450 diameter low flow C3. Total Length 550m. Estimated Cost \$128,000 (1995 figure). 0% Complete.
C4	Open grass lined channel with 450 diameter low flow C4. Total Length 300m. Estimated Cost \$76,000 (1995 figure). 0% Complete.
C5	Open grass lined channel with 450 diameter low flow C5. Total Length 180m. Estimated Cost \$43,000 (1995 figure).. 0% Complete.



Source: Section 94 Contribution Plan – Sawpit Creek (East) Stormwater Drainage Management

In order to maintain the natural characteristics of the existing drainage corridors and to minimise the impact on the environment the following works are now proposed as alternatives to the above.

Channel	Proposed Works
C2	To be constructed as per S94 specification with the exception of low flow pipes.
C3	To be piped underground through the development site, with the upstream catchment collected via a headwall in the vicinity of the existing dam located adjacent the Mitchell Highway. Note this dam will be removed. Elements of WSUD to be incorporated into Road 3. Open channel to be constructed parallel to Richardson Street to be constructed with the exception of low flow pipes
C4	Not be constructed as the existing topography forms a naturalised channel. It is proposed that this area be rejuvenated through landscape means.
C5	The current location proposed is through environmentally sensitive areas. It is proposed in-lieu of this channel the existing dam is upgraded with a larger low flow pipe and spillway to accommodate larger storms.

Section 3.3.4 Reticulated water and sewer

Water

Existing water mains in Governors Parade and Richardson will be extended into the proposed subdivision.

Sewer

There is an existing 375mm trunk sewer main adjacent to Sawpit Creek to the west of the development site. All new sewer mains will be gravity fed to this trunk sewer main.

Section 3.3.6 Soil and Water Management

A condition will be imposed to ensure that a detailed Soil and Water Management Plan is submitted to Council for approval prior to the issue of any Construction Certificates for the proposed subdivision.

3.3.8 Landscaping

The development site is surrounded by open space as identified on Development Control Plan Map No. 5 *Windradyne, Llanarth & Abercrombie*. Section 13.3.8 of the Development Control Plan provides the following design principles for the subject open space area.

Dimensions and characteristics	Species Type/ Planting Characteristics	Planting Density	Timing of Planting
<ul style="list-style-type: none">• Dimensions: various (refer DCP Maps)• Sawpit Creek Corridor (DCP Map No. 6) , minimum width: 50m	<ul style="list-style-type: none">• Retain existing native trees and shrubs.• Re-vegetate where appropriate with same species and/or in accordance with the requirements of the Bathurst Vegetation Management Plan where relevant.	<ul style="list-style-type: none">• Areas of plantings should contain random plantings of appropriate species.	<ul style="list-style-type: none">• Prior to issue of subdivision certificate.

Existing vegetation within the open space area surrounding the development site will be maintained.

Council at its Ordinary Meeting held 17 February 2021 resolved to adopt a landscape concept design for the Sawpit Creek Open Space Reserve.

See copy of the landscape concept design for the Sawpit Creek Open Space Reserve at **attachment 10**.

The landscape concept design makes provision for the open space areas to the north, south and west of the development site.

The funding and implementation of the approved design have not yet been determined but will likely be undertaken in stages as funds are allocated in annual Operational Plans and through State and Federal grants.

Section 3.3.9 Land contamination

The subject has historically been used for grazing. The subject site is not identified on Council's Contaminated Land Information System and there is no evidence to suggest past contaminating land uses. A preliminary site investigation has therefore not been undertaken.

Section 3.4.2 Allotment dimensions

The DCP prescribes a minimum frontage width of 16.5 metres for regular lots and a minimum access handle width of 3 metres for battle-axe lots.

With the exception of a small number of lots (including those lots around the cul-de-sac heads), each of the proposed regular lots has a frontage width of at least 16.5 metres.

Section 3.4.3 Road works

The proposed road layout is essentially a modified grid pattern.

The proposed road layout (and connecting pathways) provide maximum access to the surrounding public open space areas. Further, the proposal includes roads that directly adjoin the public open space areas to provide visibility and therefore passive surveillance. Only a small number of lots will share boundaries with the public open space areas. The public open space areas adjoining such lots are wide and will have good visibility for passive surveillance.

The proposed road layout provides a linkage to the adjoining residential land to the south-west.

Section 3.8 Development Control Plan Maps

Map No. 5 Windradyne, Llanarth & Abercrombie

The layout of the proposed subdivision is generally consistent with the indicative layout shown on Development Control Plan Map No. 5.

While it is identified on the DCP Map No. 5, Proposed Road 3 will not link and intersect with the Mitchell Highway at this stage.

See Development Control Plan Map No. 5 at **attachment 11**

4.15(b) Likely impacts

Traffic Generation

A Traffic Impact Assessment, prepared by Bitzios Consulting (dated 1 May 2020) has been submitted in support of the Development Application.

See the Traffic Impact Assessment at **attachment 6**.

The key findings from this Traffic Impact Assessment for the proposed subdivision are summarised as follows:

- the proposed development is projected to generate a significant number of trips, with 178 AM and 195 PM peak hour trips;

- the vast majority of trips are likely to occur to and from Bathurst Town Centre and surrounding key attractors. Furthermore, it is most likely that private vehicle trips will be preferred by residents as a desirable transport mode to and from the proposed development, given:
 - the site's distant proximity to local facilities;
 - very limited local bus services; and
 - lack of local cycling infrastructure connecting with the wider network;
- the additional local walking/cycling routes proposed under the Bathurst Regional Development Control Plan 2014 Map No. 5 may increase cycling trips in the future;
- given tube counts were used for the SIDRA intersection analysis, only an approximation of intersection impacts can be determined;
- the SIDRA analysis of the Mitchell Highway/Bradwardine Road, Bradwardine Road/Larkin Street and Bradwardine Road/Suttor Street intersections concludes that they all perform well within acceptable Level of Service and Degree of Saturation in both the AM and PM peaks in all scenarios;
- the proposed development is expected to generate over 130 trips in both the AM and PM peaks onto Richardson Street, Opperman Way, Larkin Street, and Suttor Street east of Bradwardine Road. However, the impact on these local roads will be negligible given Richardson Street and Opperman Way are both internal roads and traffic will not travel on a significant portion of the local road network. These roads will still operate within the environmental capacity for their function within the road hierarchy;
- in comparison, only up to 50 trips in both the AM and PM peaks will be generated onto Colville Street, a very short section of Governors Parade, and Suttor Street west of Bradwardine Road, considering that Suttor Street already functions as a collector road given it is the primary access route in and out of Windradyne and experiences very little congestion; and
- Richardson Street and Governors Street can adequately cater for development traffic without direct access to the Mitchell Highway. Also, as Suttor Street provides the shortest route from the proposed development to Bathurst Town Centre, local trips are taken off the Mitchell Highway, maintaining safety and efficiency.

Earthworks and retaining walls

The submitted Civil Development Report indicates generally a balanced approach to cut and fill across the site.

The Report also notes that one retaining wall will be required in the north eastern corner of the site (Lots 101-110). The maximum height of the retaining wall is to be 1 metre.

Flora & Fauna

A detailed Flora and Fauna Assessment prepared by NGH (dated July 2020) has been submitted with the application. The Assessment has considered the potential for, and significance of, impacts to threatened species and communities listed under the NSW *Biodiversity Conservation Act 2016* and the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*.

See Flora and Fauna Assessment at **attachment 8**.

The proposed subdivision will impact a previously cleared and cultivated heavily exotic dominated grassland. Exotic vegetation in the development site is predominant and in place, bare soil is exposed. Therefore, the impact of the proposed subdivision on threatened flora and fauna has been assessed as being low.

Flora

The site contains 2 areas (0.04ha and 0.09 ha) of remnant vegetation. These patches comprised of three eucalypt saplings near the three Yellow Box (*Eucalyptus mellidora*) adjacent to the drainage channel along the eastern boundary of the site and an isolated Blakely's Red Gum (*Eucalyptus blakelyi*) along the western creekline. These 2 areas of Blakely's Red Gum – Yellow Box grassy tall woodland will be impacted by the proposed subdivision. This community forms part of the NSW listed Critically Endangered Ecological Community (EEC) – White Box, Yellow Box, Blakely's Red Gum Grassy Woodland.

No significant impacts to this EEC are considered likely for the following reasons:

- The 0.13 ha is heavily disturbed with a predominantly exotic understorey and groundcover. It is unlikely that the proposal would substantially and adversely modify the composition of the EEC such that its local occurrence is likely to be placed at risk of extinction.
- There are three paddock trees and one hollow-bearing tree to be removed as part of the works.
- The condition of the majority of the impact area is low.
- There is better condition vegetation along Sawpit Creek that is situated outside the western boundary that would be retained and continue to support native fauna.

Fauna

The proposal involves improvement works to the northern dam including minor reconstruction of the dam wall including installation of a low flow pipe and spill way. Temporary disturbance to aquatic habitat would occur and potentially impact threatened amphibians (suitable habitat exists for the Green and Golden Bell Frog and Yellow Spotted Tree Frog within the northern dam). With the implementation of mitigation measures, including avoiding disturbance to the inflow area of the dam, these impacts are likely to be temporary in nature and unlikely to significantly impact threatened amphibian species. No impacts to threatened fish species is expected to occur as a result of the construction phase of the proposal.

Koala Habitat

On the basis of marginal habitat structure, no detectable signs during the field survey and no nearby records, it is unlikely that the study area supports a resident Koala population and the site is not considered Core Koala Habitat.

Biodiversity Offset Scheme

The Flora and Fauna Assessment considers the potential of the proposal to trigger the Biodiversity Offset Scheme (BOS). The following table outlines the triggers for the BOS and response for the proposed subdivision.

Entry Threshold	Response
Whether the amount of native vegetation being cleared exceeds an area threshold	The proposal is located on land with a minimum lot size of 550sqm. 0.13 hectares of native vegetation would be removed. This is below the 0.25 hectares threshold. Disturbances to the dam bank and spillway reformation will occur in exotic vegetation.

Whether the impacts occur on an area mapped on the Biodiversity Values Map	The development site does not impact on any land classed as land of high biodiversity value. However, Sawpit Creek, west of the western boundary, is considered as land of high biodiversity value.
Whether the proposed activity has the potential to significantly impact threatened species	There is unlikely to be any impact on threatened species.

Heritage

There are no listed European Heritage Items on or in the vicinity of the subject site and no known Aboriginal site or places on or in the vicinity of the subject site.

Economic Impacts

The proposed development is unlikely to have any significant adverse economic impacts.

Social Impacts

The proposed development is unlikely to have any significant adverse social impacts.

Adjacent Agricultural Land

The Sawpit Creek riparian corridor, zoned RE1 Public Recreation, will provide a buffer between the proposed residential subdivision and the adjacent agricultural land. The Sawpit Creek riparian corridor will ultimately be vegetated in accordance with Council's adopted landscape concept design, as noted earlier in this report. This vegetated corridor will be a minimum of 50 metres wide and will mitigate potential impacts such as noise, dust, odour and spray drift.

Visual Impact

Council's adopted landscape concept design for the Sawpit Creek Open Space Reserve includes landscaping between the proposed subdivision and the Mitchell Highway. This landscaping will provide a visual buffer to and from the Mitchell Highway.

4.15(c) Suitability of the site

The subject site directly adjoins established and developing residential estates. The subject site can be serviced with water, sewer, stormwater, electricity and telecommunications services. The subject site has direct access to two major collector roads.

Consistency with Bathurst Housing Strategy

The Bathurst 2036 Housing Strategy was adopted by Council in 2016 to guide the anticipated growth of the City. The Strategy identifies potential population growth in the order of 12,000 persons in the period 2016-2036. This translates to the 5,245 new dwellings. As of 2016 there was approximately 770 hectares of land zoned for future residential development.

This land forms part of the existing 770 hectares identified in the Strategy to accommodate the additional population projected. In this context subdivision of the land is consistent with the outcomes identified in the Housing Strategy.

Open space interface with Sawpit Creek

Council at its meeting held 17 February 2021 adopted an overarching Landscape Design for the Sawpit Creek Open Space Reserve. The Design includes the open space corridor from the northern end of Sawpit Creek where it joins Ophir Road through to the Mitchell Highway. This includes a mixture of Council owned and privately owned land.

The design brief includes incorporation of the following elements along the Reserve:

- Stormwater management and drainage incorporating WSUD.
- Playgrounds, shelter and BBQ facilities, passive and active recreation areas.
- Sealed pathways and cycleways linking the Kath Knowles pathway (adjoining the Macquarie River) and the Mitchell Highway.
- Water refill stations and seating.
- Playground equipment.
- Shade trees and garden beds comprising naturally occurring Box Gum Grassy Woodland species

Open space interface with Mitchell Highway

The adopted Landscape Design also includes the area between the residential estate and the Mitchell Highway. Given the proximity of the residential lots to the Highway, implementation of the design elements become important in mitigating the potential impacts associated with residential development in this area eg back fences.

Footpaths

Submitted plans make provision for a shared cycleway around the perimeter of the development and for local footpaths along each of the proposed roads within the subdivision.

4.15(d) Submissions

The proposed development was initially treated as Integrated Development for the purposes of the Water Management Act 2000 and the Fisheries Management Act 1994 and was subsequently advertised and notified to adjoining property owners for a period of 30 days between 2 September 2019 and 1 October 2019. No public submissions were received during the exhibition period.

4.15(e) Public interest

The proposal is for the subdivision of land for residential purposes consistent with its zoning. The development as proposed is consistent with the development controls adopted for the land.

Section 7.11 Contributions Plans

The following table outlines the Section 7.11 Contributions plans that apply to the proposed subdivision and their underlying purpose.

Contributions Plan	Purpose
Bathurst Regional Community Facilities	Contributions paid to Council will fund community services and community buildings within the Bathurst Region.

Sawpit Creek (East) Stormwater Drainage Management	Contributions paid to Council will fund stormwater drainage infrastructure improvements within the relevant catchment area.
Roadworks – New Residential Subdivisions	Contributions paid to Council will fund road infrastructure improvements within the vicinity of the development area and identified within the schedule of works within the Plan.
Bathurst Regional Open Space	Contributions paid to Council will fund the provision or extension of open space that will be required as a consequence of development in the area or that has been provided in anticipation of or to facilitate such development.

Referrals

Internal Referrals

The proposed development was referred internal within Council to the following officers:

- Development Assessment Engineer;
- Environmental Officer; and
- Development Assessment Planner.

Conditions have been recommended by the above Council officers, which have been included within the Draft Notice of Determination at **attachment 1**.

External Referrals

Agency	Comments
Natural Resources Access Regulator (NRAR)	The proposed development was initially treated as Integrated Development for the purposes of the Water Management Act 2000 and was subsequently referred to Natural Resources Access Regulator (NRAR). Council is exempt from requiring a Controlled Activity Approval (CAA) under Subdivision 4 <i>Exemption from requirement for controlled activity approval</i> of the Water Management (General) Regulation 2018 for the proposed works on waterfront land. As a Controlled Activity Approval is not required, General Terms of Approval have not been issued by Natural Resources Access Regulator (NRAR).
Department of Primary Industries – Fisheries	The proposed development was initially treated as Integrated Development for the purposes of the Fisheries Management Act 1994 and was subsequently referred to the Department of Primary Industries (DPI) – Fisheries. As the tributaries of Sawpit Creek that traverse the development site are only 1 st order streams General Terms of Approval have not been issued by DPI – Fisheries.
Transport for NSW	TfNSW is willing to grant its concurrence to the proposal, pursuant to Section 138(2) of the Roads Act 1993, subject to the following conditions being met: <ul style="list-style-type: none"> • A sealed (bitumen or concrete) off-road shared cycleway path is to be provided along the Mitchell Highway,

	<p>connecting the existing paths at Bradwardine Road and Dean Street, prior to any Subdivision Certificate. The detailed design is to be in accordance with Austroads standards and concurrence to the detailed design obtained from TfNSW prior to the commencement of construction.</p> <p>Advice: The developer proposed a cycleway link along Dean Street between Suttor Street and the Mitchell Highway, however TfNSW supports a route that uses the arterial road network as it would ultimately serve a wider urban catchment and have high legibility and so is likely to take more vehicle trips off the network.</p> <ul style="list-style-type: none"> • Prior to any Subdivision Works Certificate, the developer shall obtain approval in writing from TfNSW as to the extent of Mitchell Highway road reserve widening (if any) required for purposes such as: <ul style="list-style-type: none"> ○ Planned highway safety program improvements adjacent to the site, ○ Adequate roadside area including recovery area for errant vehicles, and/or ○ Strategic planning initiatives, such as (but not limited to) future intersection locations on the highway for a potential southern town centre bypass or access between the highway and adjoining subdividable land. • The design and minimum setback distance of residential lots from the highway is to be modified to suit. The road widening land required by TfNSW shall be dedicated as public road reserve prior to any Subdivision Certificate release for the adjacent lots, at no cost to TfNSW.
Essential Energy	<p>Essential Energy provided a response but made no specific comments in relation to safety risks arising from the proposed development but did make general comments in relation to easements, supply to the subdivision and safety during construction.</p>
NSW Police	<p>After undertaking a Crime Prevention Through Environmental Design (CPTED) NSW Police made the following recommendations:</p> <ul style="list-style-type: none"> • Crime Prevention Through Environmental Design be strictly adhered to, including, but not limited to building design, maintenance and lighting. • This proposal be submitted to the Traffic Management Committee for their input and recommendations. Pedestrian access and cycle ways should also be considered in the traffic plan. <p>In relation to Point 1 above, the layout of the proposed subdivision employs the principles of Crime Prevention Through Environmental Design particularly in relation to</p>

	<p>passive surveillance of open space areas and pedestrian walkways between lots.</p> <p>In relation to Point 2 above, the proposal has not been referred to the Traffic Management Committee as it was instead referred to Transport for NSW under Clause 104 of State Environmental Planning Policy (Infrastructure) 2007. Plans for the proposed development indicate a footpath network along each of the proposed internal roads and a perimeter cycleway around the edge of the development site.</p>
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See responses from abovementioned agencies at **attachment 12**.

Summary

The development proposes the subdivision of residentially zoned land to enable its development. The development is consistent with the adopted planning controls governing the development of the land.

It is considered that the development warrants conditional development consent.