

DEVELOPMENT ASSESSMENT REPORT – DA245/13 (MODDA052/22) – APPROVED SUBDIVISION OF 1 LOT INTO 61, MODIFICATION TO LOT CONFIGURATION & NO. OF ALLOTMENTS, SERVICES AND ROAD CONSTRUCTION, LOT 72 DP1282868, 17G GREAT WESTERN HIGHWAY, BOWENFELS NSW 2790

1. SUMMARY

Council is in receipt of Modification Application MODDA052/23 seeking to modify Development Application DA245/13. In particular, modify the lot configuration and number of allotments, services and road construction on land known as Lot 72 DP 1282868, 17G Great Western Highway, Bowenfels- extension of Marrangaroo Estate.

The Development Application has been called in pursuant to Policy 7.7 "Calling in of Applications by Councillors". On 27 February 2023, the Call In Report was reported at the Ordinary Meeting of Council (reference Min No. 23-25).

Pursuant to the Lithgow Community Participation Plan, the Application was notified commencing 11 January 2023 and concluded 3 February 2023. Nine (9) written submissions, by way of objection, were received during the notification period.

The original approval was determined by the elected Council on 2 March 2015, for Subdivision of 1 lot into 61 lots.

In 2020, Council sought legal advice on information provided in the context of whether the engineering design drawings, geotechnical report and survey work would be sufficient to constitute physical commencement of the development within the meaning of section 4.53(4) of the Environmental Planning and Assessment Act.

It was concluded that the combination of the geotechnical investigation, survey works and engineering design drawings (which directly relied on the geotechnical investigation and survey works) would likely comply with the requirements of section 4.53 (4) of the EP&A Act. Consequently, it was advised to the applicant that should Council be asked to act in certification role for a Construction Certificate for the bridge it would not decline on the basis that it was of the view that the consent had lapsed.

A previous modification modda002/21 was determined by Council Officer's Delegated Authority on 26 March 2021, for a modification relating to Transport for NSW/John Holland Rail Conditions.

The application will be assessed under Section 4.55 (2) of the *Environmental Planning and Assessment Act 1979*.

2. PROPOSAL

Council is in receipt of a Development Application DA245/13, modification MODDA052/22 seeking consent for a modification to lot configuration and number of allotments, services and road construction on land known as Lot 72 DP 1282868, 17G Great Western Highway, Bowenfels- extension of Marrangaroo Estate.

In summary, Modification Application MODDA052/23 proposes the following:

- Amendment to change the lot configuration, with the addition of 4 new allotments, including changing the proposed development from 1 lot into 65 lots.
- Proposal to amend the additional emergency access via the level crossing to the south of the property.
- Amendment to the technical requirements for sewer services and contributions.
- Amendment to the road construction standards and technical requirements.
- Amend conditions, 71, 109, 113, 115, 124, relating to a new storm water model and bioretention basin.

Proposed allotment modification is as follows:

- Lots 1- 14 will remain as per the original approval,
- Lots 15-17 involves the same number of allotments as per the original approval with the reduction to allotment sizes,
- Lots 18 & 19 involves reconfiguration to road frontage with a reduction to allotment sizes,
- Lots 20-27 involves the same number of allotments as per the original approval with a slight increase to allotment sizes except Lots 23, 25 & 26 will be slightly reduced
- Lots 28- 49 will contain a total reconfiguration and amendments to allotment sizes,
- Lots 50-58 involves the same number of allotments as per the original approval with the reduction to allotment sizes,
- Lots 59-65 involves reconfiguration to road frontage with a reduction to allotment sizes.

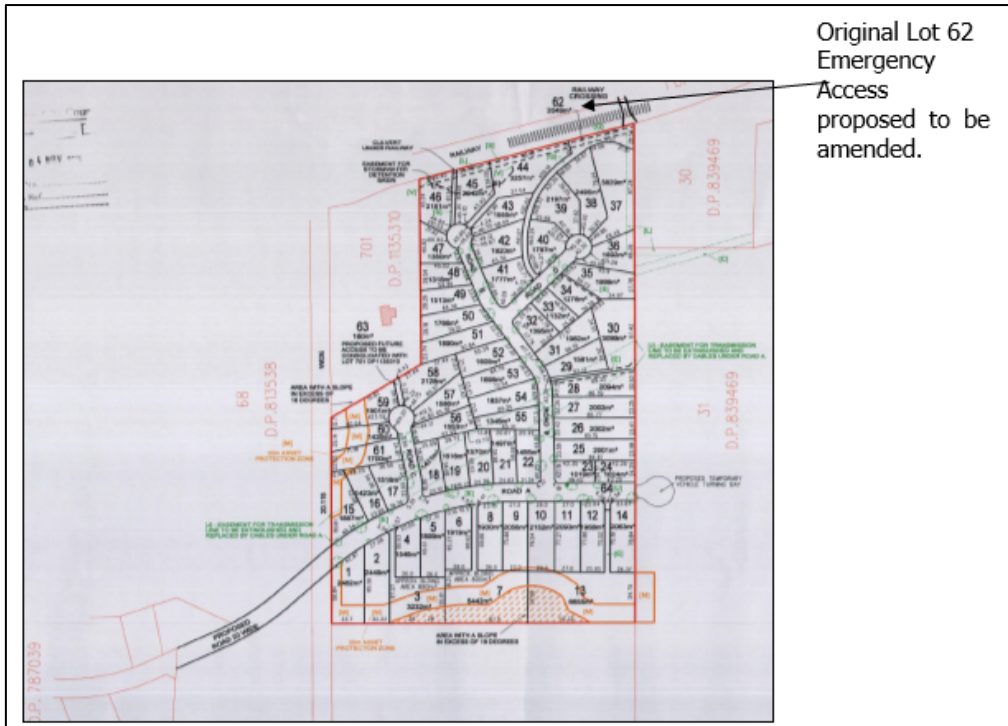


Figure 1 - Approved Subdivision Arrangement DA245/13



Figure 2 - Proposed Subdivision Arrangement MODDA052/22

The following conditions shall be amended as part of this modification:

- 1 - Applications/Approvals, (Administration Condition),
- 2 - Planning Agreement, (Administration Condition),
- 4 - Subdivision Certificate, (Administration Condition),
- 7 - Right of Carriageway, (Administration Condition),
- 17 - Emergency Access Road, (Operational Condition),
- 28 - Farmers Creek Pump Station, (Operational Condition),
- 59 - Batters (Engineering Requirements), (Operational Condition),
- 60 - Road Grade, (Operational Condition),
- 63 - Road Construction, (Operational Condition),
- 71 - Timeframe of the Bioretention Basin,
- 89 - Bushfire Requirements, (Administration Condition),
- 109 - WaterNSW (Sydney Catchment Authority) Requirements,
- 111 to 113 and 115 to 125 WaterNSW (Sydney Catchment Authority) Requirements,

The following conditions shall be added as part of this modification:

- 108a & 108b Rail Requirements) and
- 1265a - Endeavour Energy Requirements.

The following outlines the Applicant's reasoning and justification for the proposed modification.	
Proposed Modification: Item 1	
Modification	Amendment to change the lot configuration, with the addition of 4 new allotments, including changing the proposed development from 1 lot into 65 lots from the approved 61 lots.
Applicants Reasoning	<p>The modified layout will result in a superior lot layout/design in conformity with the provisions of Chapter 5 of the Lithgow Development Control Plan 2021. The development is substantially the same. The modification is generally limited to the south eastern portion of the proposed development. The modification achieves a better road design thereby enabling the creation of more uniform and regular shaped lots with all modified lots now having street frontages for safe street access. The applicant has further provided the following justification:</p> <ul style="list-style-type: none"> • The modification achieves a better road design thereby enabling the creation of more uniform and regular shaped lots with all modified lots now having street frontages for safe street access. • The modification achieves better lot shapes by the elimination of large irregular shaped lots and several battle-axe lots. • The modification maximises the number of regular shaped lots with the intention of eliminating irregular shaped lots and battle-axe lots where possible/practicable. • The modification generally results in a range of lot sizes which will enhance the area and result in a more consistent street scape and character.

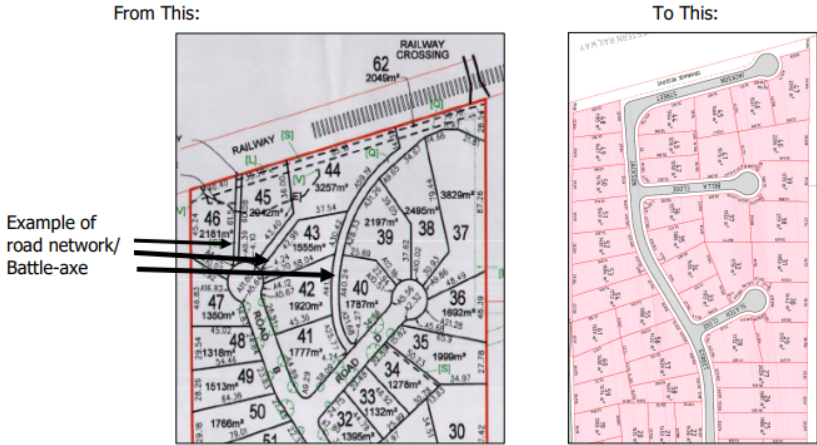
- The additional 4 allotments will be compatible with the objectives of the R2 zone under the LEP 2014 as well as being more consistent with the streetscape.

Council Assessment
 The modification proposes to decrease the size of the allotments to allow the additional 4 new lots. As such the development does not comply with the minimum allotment size of 4000m² under the Lithgow Local Environmental Plan 2014. Council's future for the area is for large residential allotments in the area and to separate the adjoining residential land within the Marrangaroo Estate to the north and rural land to the south and west of the property.

Council requested additional information on the 11 January 2023 seeking justification for the amended layout and why the amended layout is considered 'superior' in design. As well as justification to support the inclusion of the additional 4 allotments under the minimum allotment size. The applicant's response to both concerns is noted above.

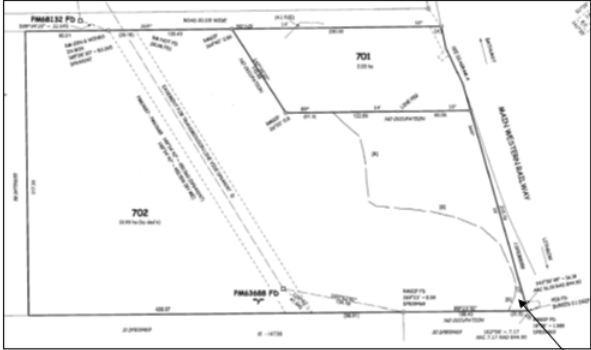
As shown on the mockup of amendments on the modification plan detailed earlier in this report, Council considers that the modification plan is a more sufficient design and layout then the originally approved plan.

The modification plan provides a better road network (removes the small slithers of roads) to the proposed allotments as well as removing the need for battle-axe allotments, specifically within the south eastern corner of the site. All proposed allotments are able to have two way road frontages. This is shown in the plans below:



In relation to allotment sizes, in 2015 Council approved the original proposed subdivision as the application was submitted under Council's Local Environmental Plan (LEP) 1994, 2(a) residential zone with no minimum allotment size. The LEP 2014 was subsequently gazetted with the new minimum allotment sizes. Given that the original approval allowed allotment sizes to be under 4000m², the current zoning of the land is R2 Low Density Residential, the allotment sizes will involve minor amendments with the addition of 4 new lots, the development will be compatible with the Marrangaroo

	<p>Fields Estate in terms of allotment sizes as well as no additional impacts on surrounding landowners from the original assessment of the application, Council Officer supports the amended lot layout, allotment sizes and the additional 4 lots.</p>
<p>Proposed Modification: Item 2</p>	
Modification	<p>Proposal to amend the additional emergency access via the level crossing to the south of the property.</p> <p>The applicant proposes to amend condition 17 that reads:</p> <p><i>17. Prior to Lot 62 being dedicated to Council, the track is to be upgraded to a suitable standard as determined by Council's Group Manager Operations.</i></p>
Applicants Reasoning	<p>The Approved Plan of Subdivision by Rygate & Company Pty Limited dated 11 February 2014 is to be modified/replaced as shown in the proposed Plan of Subdivision by Voerman & Ratsep Surveyors dated June 2021 – CAD File 21130B04a.</p> <p>An emergency access will be provided via Road 2 of the modified Plan of Subdivision and therefore Lot 62 is no longer required and has been deleted from the design.</p> <p>The proposed emergency access is to be located over an existing, registered right of carriageway.</p> <p>It is envisaged that the emergency access located within Lot 72 DP 1282868 (current Lot description) be dedicated to Council. Once the subdivision works have been completed the Right of Carriageway within Lot 72 DP 1282868 can be extinguished.</p> <p>The proposed modification will eliminate future ongoing Council maintenance obligations.</p> <p>The modification will result in an improved lot layout.</p> <p>The modification will result in additional privacy to future lot owners in the subject location.</p>
Council Assessment	<p>Given that Lot 62 on the original plans has been extinguished via the modified plans, Council agrees that condition 17 is to be amended to read:</p> <p><i>17. Prior to the emergency access road (located within the south eastern corner of the property) being dedicated to Council, the track is to be upgraded to a suitable standard as determined by Council's Group Manager Operations. This emergency access road is to further run within the current Lot 72 DP1282868 boundary and connect directly to Mount Walker Road from the new road. The emergency access will not be permitted to be redirected through private property.</i></p> <p>Physical access for Lots 711 and 712 (previously known as 701 in the below plan) DP 1287027 is to be maintained throughout the</p>

	<p>construction process. The developer is to consult with the landowners of Lots 711 and 712 throughout all construction works.</p> <p>The existing right of carriageway and the proposed emergency access is shown on the Deposited Plan (DP1135310) below:</p>  <p style="text-align: right;">Existing Right of Carriageway DP1135310/Proposed Emergency Access</p>
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Proposed Modification: Item 3

<p>Modification</p>	<p>Amendment to the technical requirements for sewer services and contributions.</p> <p>The applicant proposes to amend condition 28 that reads:</p> <p><i>28. Upgrade works to Farmers Creek Pump Station shall be completed at the applicants full cost, including:</i></p> <ul style="list-style-type: none"> <i>(a) The two (2) existing pumps shall be replaced. The replacement pump type and size shall be determined by Council's Water and Wastewater Department. The pumps are to be to a "Duty Assist" setup.</i> <i>(b) Increase in wet weather storage, to provide a minimum Eight (8) hours Peak Wet Weather Flows.</i> <i>(c) Upgrade of power supply as required to meet all requirements of the electricity supplier and Council requirements. An Electrical design report to be submitted prior to approval under Section 68 of Local Government Act 1993 and Construction Certificate Approval.</i> <i>(d) Full design details for Pump Station upgrade works to be submitted to Council prior to the release of the Construction Certificate.</i> <p>To be:</p> <p><i>The Developer shall pay a Sewerage Headworks charge as listed in Councils Fees and Charges and Council shall provide a "point of connection" at the lowest point of the development site in respect of the sewerage and a connection point at the highest and lowest point of the property in respect of water. The subject fee shall be paid prior to the issue of a Subdivision Certificate.</i></p>
<p>Applicant Reasoning</p>	<p>Proposal was made by Council and accepted by the developer.</p>

Council Assessment	<p>Council's Water, Wastewater and Waste Officer advised that the original condition can be removed relating to work to be completed on the sewerage pumping station as the development contributions will be Council's methodology for works being completed on downstream infrastructure, particularly as some of this work has already been completed and included in the funding models for the DSP.</p> <p>As such, suitable conditions have been placed on the consent in this regard.</p>
Proposed Modification: Item 4	
Modification	<p>Amendment to the road construction standards and technical requirements.</p> <p>The applicant proposes to amend condition 59 that reads:</p> <p><i>59. That all batters do not exceed a maximum of 1:5.</i></p> <p>To be:</p> <p><i>All batters are to comply with the provisions of 2.3.4.4 of the Lithgow City Council Engineering Design and Construction for Development Guidelines</i></p>
Applicant Reasoning	<p>Condition 59 is currently not framed in accordance with the provisions of 2.3.4.4 of the Lithgow City Council Engineering Design and Construction for Development Guidelines.</p> <p>Condition 59 does not adequately allow for the permissible designs. Condition 59 is too restrictive and therefore unreasonable.</p>
Council Assessment	<p>Council has no objection to support the modified condition and to include the following note on the condition:</p> <p><i>Note: all batters adjacent to proposed residential lots do not exceed a maximum of 1:4 for demonstrating potential driveways for proposed lots can be constructed in accordance with AS2890.1 – the maximum gradient of domestic driveways shall be 1:4 (25%).</i></p>
Proposed Modification: Item 5	
Modification	<p>The applicant proposes to amend condition 60 that reads:</p> <p><i>60. That the maximum road grade does not exceed 12%.</i></p> <p>To be:</p> <p><i>Road grades are to be determined by and comply with the provisions of 2.3.5.2 of the Lithgow City Council Engineering Design and Construction for Development Guidelines</i></p>
Applicants Reasoning	<p>Condition 60 is currently not framed in accordance with the provisions of 2.3.5.2 of the Lithgow City Council Engineering Design and Construction for Development Guidelines.</p>

	<p>Condition 60 does not adequately allow for the permissible road designs for the subject development.</p> <p>Condition 60 is too restrictive and therefore unreasonable from a development and engineering perspective.</p>
Council Assessment	Council has no objection to the proposed modification of the condition. The difference is that grades of up to 16% may be permissible on straight roads for a maximum distance of 150m in accordance with Council's engineering design guidelines.
Proposed Modification: Item 6	
Modification	<p>The applicant proposes to amend condition 63 that reads:</p> <p><i>63. Internal roads shall have a minimum of 150mm (subject to testing) of DGB-20 road base applied and compacted providing a smooth transitional surface. The road surface of roads 02, 03, and 04 are to be constructed to an 8m wide formation within a 15m minimum road reserve. The road surface of road 01 is to be constructed to a 11m wide formation within a 20m minimum road reserve. Where appropriate roads are to be surfaced with a finished seal to 14/7 hot bitumen spray. Turning circles are to be 40mm hotmix/AC Roll top kerb and guttering is to be provided on both sides of all internal roads. Geotechnical compaction tests and visual deflection testing are to be undertaken and to be approved by Council prior to the application of seal.</i></p> <p>To be:</p> <p><i>Internal roads shall have a minimum of 150mm (subject to testing) of DGB-20 road base applied and compacted and providing a smooth transitional surface. The road surface of roads 01, 02, 03, 04 and 05 are to be constructed to an 8-meter-wide carriageway within a 15-meter-wide road reserve. The road surface of the main road in the Plan of Subdivision by Voerman & Ratsep CAD File – 21130B04a (connecting to Bundara Close) is to be constructed of an 11-meter-wide carriageway within a 20-meter-wide road reserve. Roads are to be surfaced with a finished seal of 14/7 hot bitumen spray. Turning circles are to be 40mm hot mix. Roll top curbs and guttering is to be provided on both sides of all internal roads.</i></p>
Applicant's Reasoning	To redefine/identify the proposed subdivision roads in accordance with the Plan of Subdivision by Voerman & Ratsep dated June 2021.
Council Assessment	The applicant and Council previously had discussions in relation to this amendment dated 4 November 2020. As such Council has no objection to the modified condition to include Road-05 stated on the plans should the amended approved layout plan be approved. The last sentence on the original consent condition should also be included.
Proposed Modification: Item 7	
Modification	The applicant proposes to amend condition 71 in relation to the timeframe of the maintenance bond for the bio-retention basin.
Applicant's Reasoning	The applicant proposes to include an additional condition to include a 2 year period for the maintenance bond for the bio-retention basin.

Council Assessment	Council is satisfied to amend the condition to include a separate bond for the bioretention basin.
Proposed Modification: Item 8	
Modification	The applicant proposes to amend condition 109 that reads: <i>109. The lot layout of the subdivision shall be as shown on the Proposed General Arrangement Layout Plan prepared by LandTeam Australia Pty Ltd (Dwg No. 206152 DA01, Rev. B; dated 18 July 2014). No revised lot layout or staging of the subdivision that will impact on water quality shall be permitted without the agreement of the Sydney Catchment Authority.</i>
Applicant's Reasoning	To reflect WaterNSW Requirements.
Council Assessment	Council is satisfied for the condition to be amended to reflect the amended plans and as per WaterNSW requirements.
Proposed Modification: Item 9	
Modification	The applicant proposes to amend condition 113 that reads: <i>113. The subdivision roads and access ways shall be located and constructed as shown on the Proposed General Arrangement Layout Plan prepared by LandTeam Australia Pty Ltd (Dwg No. 206152 DA01, Rev. B; dated 18 July 2014), but with the following specifications and requirements:</i> <ul style="list-style-type: none"> • <i>be sealed and otherwise constructed in accordance with Council's engineering standards</i> • <i>incorporate a two-way crossfall, as appropriate, with runoff to be collected via a series of pits and pipes and directed to various water quality treatment measures detailed in the following conditions, and</i> • <i>incorporate inlet filters (Enviropod 200 or Sydney Catchment Authority approved equivalent) on all inlet pits.</i>
Applicant's Reasoning	The proposed Plan of Subdivision is to be modified by the Plan of Subdivision by Voerman & Ratsep Surveyors dated June 2021 CAD File – 21130B04a and Condition 113 will become ambiguous.
Council Assessment	Council is satisfied for the condition to be amended to reflect the amended plans and as per WaterNSW requirements.
Proposed Modification: Item 10	
Modification	The applicant proposes to amend condition 115 that reads: <i>115. All stormwater management measures as specified in the MUSIC Model Assessment Report (dated 18 July 2014) and Concept Drainage Plan (Dwg. No. 206152 DA24, Rev A; dated 6 June 2014.) all prepared by LandTeam Australia Pty Ltd, shall be implemented, in particular as elaborated or varied in the following conditions.</i>
Applicant's Reasoning	Stormwater Plan and MUSIC model is to be replaced by Stormwater Plan by Williams Consulting Engineers Australia Pty Ltd.
Council Assessment	Council is satisfied for the condition to be amended to reflect the amended plans and as per WaterNSW requirements.
Proposed Modification: Item 11	

Modification	The applicant proposes to amend condition 124 that reads: <i>124. The Soil and Water Management Plans prepared by LandTeam Australia Pty Ltd (Dwg. No. 206152 DA22 and DA23, Rev A; dated 6 June 2014.) shall be updated by a person with knowledge and experience in the preparation of such plans for all works proposed or required including for the filling of the existing dam and works in the natural drainage lines. The Plans shall meet the requirements outlined in Chapter 2 of NSW Landcom's Soils and Construction: Managing Urban Stormwater (2004) manual - the "Blue Book" and shall be developed in consultation with the Sydney Catchment Authority prior to the issuance of a construction certificate.</i>
Applicant's Reasoning	The Plans by the LandTeam are to be replaced by the Plans of Williams Consulting Engineers Australia Pty Ltd.
Council Assessment	Council is satisfied for the condition to be amended to reflect the amended plans and as per WaterNSW requirements.

3. LOCATION OF THE PROPOSAL

Legal Description: Lot 72 DP 1282868
Property Address: 17G Great Western Highway Bowenfels NSW 2790

4. DETAILS OF CURRENT APPROVAL

Development consent was granted by Council to DA 245/13 on 2 March 2015 for the subdivision of the land into 61 lots. This includes the subdivision of the land identified as Lot 702 DP 1135310, the construction of an access road over Lot 68 DP 813538 and upgrade works to local infrastructure comprising the widening/augmentation of the existing Girraween Drive overpass crossing the Main Western Railway. Development consent was granted subject to conditions imposed by various referral agencies including John Holland Rail being the responsible entity for the Main Western Railway.

A previous modification modda002/21 was determined by Council Officer's Delegated Authority on 26 March 2021, for a modification relating to Transport for NSW/John Holland Rail Conditions.

5. PERMISSIBILITY

The proposed use is defined as being a subdivision under the Lithgow Local Environmental Plan 2014. The development is therefore permissible in the zone under the LEP provisions.

This permissibility is not proposed to change as part of this modification.

5.1 POLICY IMPLICATIONS (OTHER THAN DCPs)

Lithgow Community Participation Plan

Pursuant to the Lithgow Community Participation Plan, the Application was notified commencing 11 January 2023 and concluded 3 February 2023.

As the modification proposes to impact nearby neighbours, the proposed development was placed on public exhibition in accordance with the Lithgow Community Participation Plan and nearby landowners have been notified of the proposal. The proposal documents were placed on public exhibition for 21 days in accordance with the Participation Plan.

During the notification period for the modification of consent, nine (9) submissions were received. These submissions are detailed later in this report.

Policy 7.6 Development Applications by Councilors and Staff or on Council Owned Land

This Policy states:

3. This policy does not apply to applications for the modification of development consent unless the modification represents a significant departure from the original application. However, staff cannot assess or determine modification applications involving their development; their land; or development or land involving their immediate family.

As per the original application, the development requires access across Council land.

7.7 Calling in of Development Applications or Development Application/Construction Certificates by Councillors

This Policy states:

4. This policy does not apply to applications to modify development consents unless the modification represents a significant departure from the original application; would involve issues the subject of an objection with the original application; or where the modification application itself has been called in under the processes outlined in this policy.

The original and modification application were both called in and reported/determined at previous Council meetings.

The current modification was subsequently 'called in' and reported at Council's Ordinary Meeting dated 27 February 2023. As such the development further complies with clause 3 of Council's 7.7 Policy as stated below:

3. Should written notice signed by a Councillor be provided to the General Manager prior to determination of a development application, the application shall not be determined under delegated authority but shall be:

- Reported to the next available Ordinary Meeting for the information of Council that the development application or development application/construction certificate has been 'called in'; and*
- Reported to a Meeting of Council for determination where the application is in a state that it can be determined.*

Policy 1.3- Acquisition and Disposal of Assets

As per the original application, this application requests the use of Council land to construct a road to the proposed development from Bunadrra Place. This road, once completed, will be dedicated back to Council as part of the subdivision Certificate release process. The land is known as Lot 68 DP813538.

Once the subdivision has been constructed and finalised, all roads will be dedicated as public roads under Council control.

The dedication of this land is not proposed to change as part of this application.

The modification however proposes an amended water quality treatment devices that involves a proposed "Filterra" bioretention basin. This bioretention basin was accepted by Council's Director of Infrastructure; Jonathon Edgecombe, on 14 August 2023.

5.2 FINANCIAL IMPLICATIONS

Water Management Act 2000

Under the Water Management Act 2000-Section 305, an Application for certificate of compliance must be submitted to Council. This Act states:

- (1) A person may apply to a water supply authority for a certificate of compliance for development carried out, or proposed to be carried out, within the water supply authority's area.*
- (2) An application must be accompanied by such information as the regulations may prescribe.*

Therefore, Councils Section 64 contributions for water and sewer connections will be required to be paid prior to the release of the Final Subdivision Certificate. The following condition would be included in the conditions of consent:

- An application shall be submitted to Council for the supply of a Certificate of Compliance under Section 305 of the Water Management Act. A Final Subdivision Certificate shall not be issued until such time as a Certificate of Compliance has been issued under Section 307 of that Act at full cost to the applicant.*

This condition will remain on the consent and is to proposed to be modified as part of the modification.

Planning Agreements

A voluntary planning agreement was undertaken for the original application between the developer and Council. The contribution will cover embellishments of the existing playground within the Marrangaroo Estate being \$50,000 and a general contribution to community facilities.

The contribution proposed by the developer is \$1700 per lot created. As such the Planning Agreement will be amended to reflect the additional number of allotments; that being 65 lots with a total contribution of \$110,500 should the application be approved.

5.3 LEGAL IMPLICATIONS

Conveyancing Act 1919

The original application conditioned a restrictive covenant which will not allow the installation of coal burning appliances in the subdivision.

Additionally, the following restrictions/positive covenants have been requested from Water NSW (SCA):

Future Dwellings

- *There shall be a public positive covenant under Section 88E of the Conveyancing Act 1919, the prescribed authority being the Sydney Catchment Authority, placed over all proposed lots requiring that any future dwelling have a rainwater collection and reuse system that includes the following specifications and requirements:*
 - *rainwater tanks with a minimum total capacity of 10,000 litres above any volume required for mains top-up*
 - *roofs and gutters designed so as to maximise the capture of rainwater in the tanks*
 - *the tanks plumbed to toilets, laundry and other areas for non-potable use including use for gardens, and*
 - *rainwater tank overflow directed to a raingarden located on the lot.*

- *There shall be a public positive covenant under Section 88E of the Conveyancing Act 1919, the prescribed authority being the Sydney Catchment Authority, placed over all proposed lots requiring that future dwellings have a raingarden that incorporates the following specifications and requirements:*
 - *be located so as to capture all runoff from the lot including any rainwater tank overflow*
 - *be designed consistent with Chapter 6 of WSUD Engineering Procedures: Stormwater (Melbourne Water 2005) and Adoption Guidelines for Stormwater Biofiltration Systems (FAWB 2009)*
 - *have a minimum surface and filter area of 9 square metres*
 - *have an extended detention depth of 300 mm*
 - *have a filter depth (excluding transition layers) of 600 mm above the underdrain*
 - *have a filter media consisting of a clean sandy loam with a certified median particle diameter of 0.5 mm, a maximum orthophosphate concentration of 40 mg/kg and a maximum total nitrogen concentration of 400 mg/kg*
 - *be planted with appropriate deep-rooted, moisture-tolerant vegetation protected by rock mulch (grass and turf is not appropriate vegetation, and organic mulch is not suitable)*
 - *direct discharge and overflow to the inter-allotment drainage system*
 - *be protected from vehicular or other damage by fences, posts, slotted kerbs or similar permanent structures*
 - *be protected by sediment and erosion control measures during any construction and post-construction phase until the ground surface is revegetated or stabilised, and*
 - *no development take place within one metre of the raingarden once constructed.*

The above restrictions will remain as conditions on the consent and is not required to be amended as part of the modification application.

Environmental Protection and Biodiversity Conservation Act 1991

No federally listed Threatened Species or Endangered Ecological Community is required to be cleared as a result of this application. Accordingly, there are no legal implications of this act on the proposed development.

Local Government Act 1993

If this application is approved, the applicant must obtain a written Section 68 approval for connection to Council's water and sewerage supply. This must be lodged and approved prior to commencement of any work on site and shall be at full cost to the applicant.

The Section 68 application requires the submission of all detailed engineering drawings/design, specifications and any applicably supporting information for the proposed works. All conditions of the Section 68 Approval must be complied with prior to the release of the Subdivision Certificate.

Native Vegetation Act 2003

All proposed clearing of native vegetation is mainly for asset protection zones as per the Rural Fires Act. As part of the Arboriculture Report prepared by Meredith Gibbs it stated that 'overall the trees within the proposed asset protection zone are predominantly in poor health and not worthy of retention within an urban setting'. It is therefore considered that there are no legal implications of this act on the proposed development.

Roads Act 1993

The main access for the development is via the Great Western Highway, which is controlled by Transport for NSW (Roads and Maritime Services) and therefore their consent on the proposal was requested for the original application. The modification is not proposed to impact the original conditions or road access from the Highway.

Additionally, there will be new road construction which will be dedicated as public roads to Council once the subdivision is finalised. This process is to comply with the Act and it is therefore considered that the development will be compliant under this Act.

Rural Fires Act 1997

The development is integrated under this Act (via Section 91 of the EP & A Act 1979). Accordingly, the approval of the Rural Fire Service (RFS) is required prior to Council being in a position to determine the application. Approval from the RFS has been obtained subject to conditions of consent. It is considered that the development will be undertaken in accordance with this Act.

Threatened Species Conservation Act 1995

No state listed Threatened Species or Endangered Ecological Community is required to be cleared as a result of this application. Accordingly, there are no legal implications of this act on the proposed development.

Water Management Act 2000

A Certificate of Compliance is required under this act prior to the release of any subdivision certificate. See previous comments under "Financial Implications".

5.3.2 Environmental Planning and Assessment Act 1979- Section 4.55 (2)

The proposed modification is made under the provisions of section 4.55(2) or the *Environmental Planning and Assessment Act 1979*, which provides the following:

(2) Other modifications

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if—

- (a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*
- (c) it has notified the application in accordance with—
 - (i) the regulations, if the regulations so require, or*
 - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and**
- (d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*

Subsections (1) and (1A) do not apply to such a modification.

Council is satisfied that the modification is substantially the same development as the original approval being for a subdivision with new roads and new services. The modification relates to amending some conditions as well as increasing the amount of allotments from 61 lots to 65 lots and inserting a new bioretention basin. Majority of the conditions to be amended relate to the proposed new layout plans (such as roads and infrastructure) and the bioretention design.

The modification was re-referred to Endeavour Energy, Transport for NSW, UGL Regional Linx, Rural Fire Service (specifically relating to the amended lot and road layout), Transgrid, WaterNSW (specifically the new bioretention basin), Council's Infrastructure Department and Water and Waste Department. The comments from these government authorities and internal responses are found later in this report.

Further the modification is considered to have an impact to surrounding residents within the existing Marrangaroo estate. Therefore, the development was re-notified to all residents within the vicinity of the development site.

Accordingly, nine (9) submissions have been received. These submissions are detailed further in this report.

5.3.2 Environmental Planning and Assessment Act 1979- Section 5.4

5.4 Exemptions for certain activities

Sections 5.5 and 5.7 do not apply to or in respect of the following (despite the terms of those sections)—

- (a) a modification of an activity, whose environmental impact has already been considered, that will reduce its overall environmental impact,*
- (b) a routine activity (such as the maintenance of infrastructure) that the Minister determines has a low environmental impact and that is carried out in accordance with a code approved by the Minister,*
- (c) an activity (or part of an activity) that has been approved, or is to be carried out, by another determining authority after environmental assessment in accordance with this Division.*

The above clause relates to Exceptions to Development Standards. In this circumstance the application does not comply with the Lithgow LEP 2014 minimum allotment size; however, given that the original approval was granted under the previous LEP 1994, the application is exempt from being referred to the Department of Planning, as it will contain no additional environmental impacts.

Any Environmental Planning Instruments

Lithgow Local Environmental Plan

The original application was assessed in accordance with the provisions of the relevant planning instruments (LEP 1994) in force at the time and was found to be compliant. As the modification proposes to include additional allotments from 61 lots to 65 lots, the application is required to be assessed in accordance with the current LEP 2014.

Lithgow Local Environmental Plan 2014

LEP 2014 – Compliance Check		
Clause		Compliance
Land Use table	R2 Low Density Residential	Yes
4.1	Minimum subdivision lot size	Yes
5.21	Flood Planning	
7.1	Earthworks	Yes
7.3	Stormwater management	Yes
7.4	Biodiversity	Yes
7.5	Groundwater Vulnerability	Yes
7.7	Sensitive lands	Yes

Comment: The proposed subdivision of land is consistent with the zone objectives. The objectives of the zone are:

1 Objectives of zone

- To provide for the housing needs of the community within a low density residential environment.*
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- To maintain or improve the water quality of receiving water catchments.*

The proposed subdivision meets the objectives of the zone as it allows for a variety of housing that is feasible and will be providing appropriate infrastructure for the increased loads. The proposal was notified to a large area surrounding the development given the increased development of the area with submissions detailed further in this report.

Clause 4.1 Minimum subdivision lot size

(1) The objectives of this clause are as follows:

(a) to minimise the cost to the community of:

(i) fragmented and isolated development of rural land, and

(ii) providing, extending and maintaining public amenities and services,

(b) to ensure that the character and landscape setting of an area is protected and enhanced by any development,

(c) to promote development on appropriately sized lots and to ensure access to available essential services.

(2) This clause applies to a subdivision of any land shown on the Lot Size Map that requires development consent and that is carried out after the commencement of this Plan.

(3) The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land.

Refer to Council's previous comments under "Summary" in this regard.

Clause 5.21 Flood Planning

The objectives of this clause are as follows—

(a) to minimise the flood risk to life and property associated with the use of land,

(b) to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change,

(c) to avoid significant adverse impacts on flood behaviour and the environment.

The site is flood affected by a minor water ponding/overland flow (approximate 300mm in deepest area) as shown below 1% AEP (100 years) flood map. The water ponding/overland flow will be removed once the subdivision and associated stormwater management device has been completed. The subdivision and stormwater management system has been designed in concept to ensure no adverse impact on adjoining properties.

A Flood Impact Report was submitted with the application that reinstated Council's Development Engineers response above.

Council's flood map is shown below:

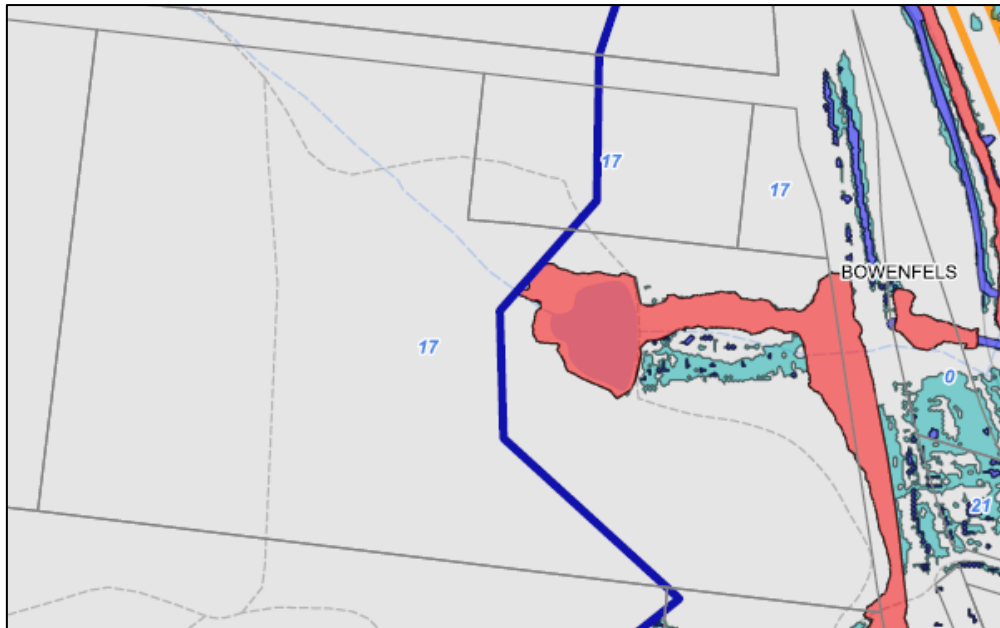


Figure 3 - Floor Plan

Clause 7.3 Stormwater Management

The applicant proposes to amend the stormwater management system to a "Filtterra" bioretention basin. The bioretention basin and stormwater model was assessed by Council's Development Engineer and WaterNSW.

As the new "Filtterra" bioretention basin has been endorsed by Council, condition 71 on the consent is recommended to be amended - from a period of 12 months to a period of 36 months.

Amended conditions have been imposed on the consent in relation to stormwater management.

Clause 7.4 Terrestrial Biodiversity

The objective of this clause is to maintain terrestrial biodiversity by—

- (a) protecting native fauna and flora, and*
- (b) protecting the ecological processes necessary for their continued existence, and*
- (c) encouraging the conservation and recovery of native fauna and flora and their habitats.*

Parts of the property is identified as containing significant biodiversity (see map extract below). This is further identified as Endangered Ecological Community (EEC) being Tableland Granite Grassy Woodland (Southern Tableland Grassy Woodland). All of these areas will be retained on the site. Therefore, no significant adverse impact on ecological values or significant flora and fauna is expected.

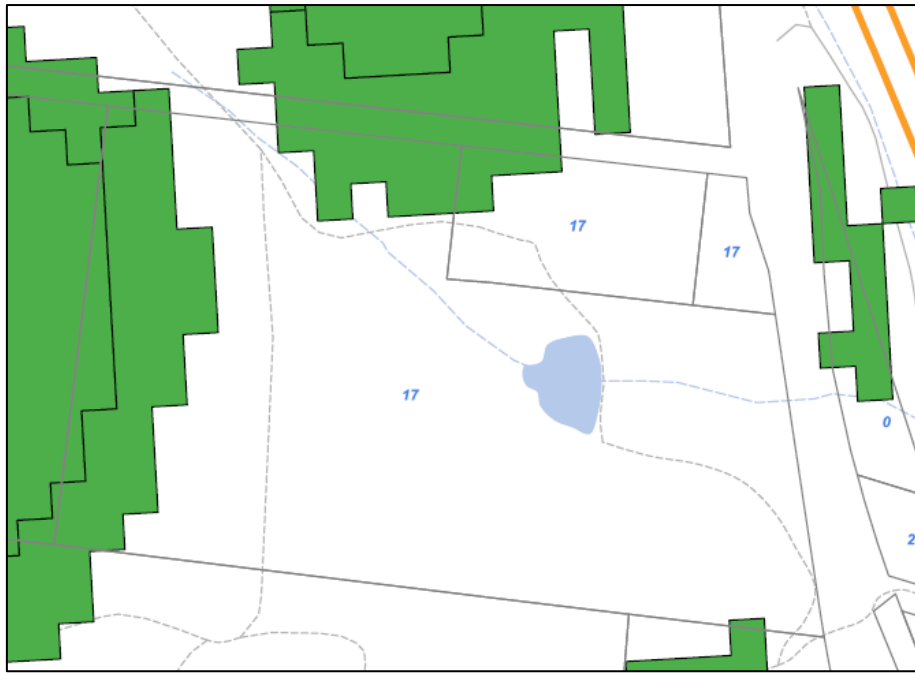


Figure 4 - Terrestrial Biodiversity

Clause 7.5 Groundwater Vulnerability

The riparian areas of the land are identified on the Environmentally Sensitive Areas—Water Overlay Map identified in this clause. The objective of this clause is to protect and maintain the following—

- (a) water quality within watercourses,*
- (b) the stability of the bed and banks of watercourses,*
- (c) aquatic and riparian habitats,*
- (d) ecological processes within watercourses and riparian areas.*

The property is subject to groundwater vulnerability. The development is designed and will be managed to avoid any significant adverse environmental impact. The development is not expected to have contamination impacts as the use of the land will remain. The groundwater vulnerability is shown on the map below:

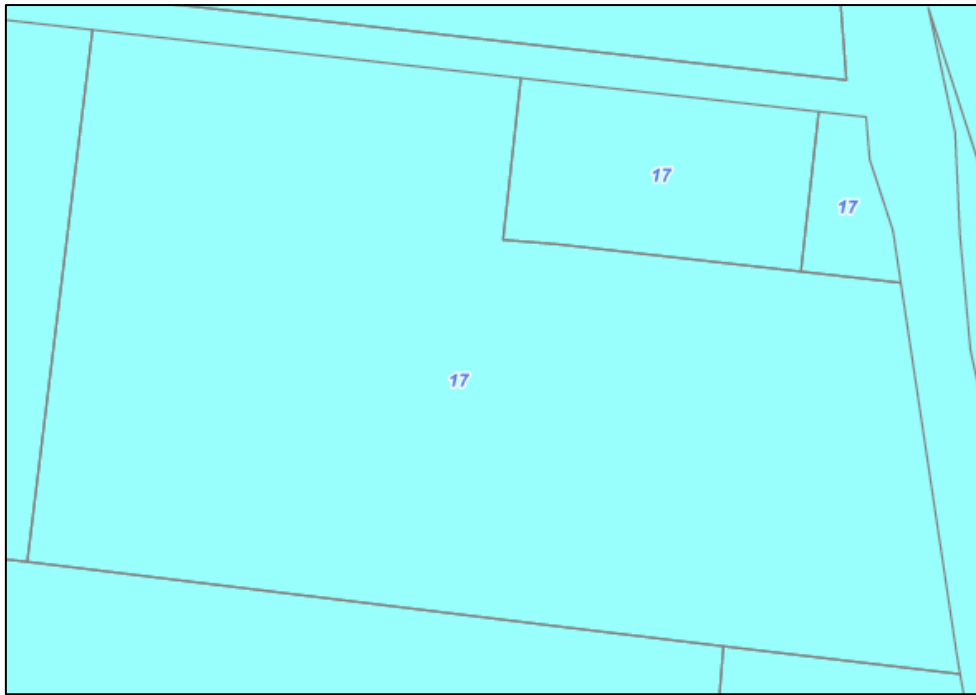


Figure 5 - Groundwater Vulnerability

Clause 7.7 Sensitive Lands

The objective of this clause is to protect, maintain and improve the diversity and stability of landscapes including the restriction of—

- (a) Development on land generally unsuitable for development due to steep slopes or shallow soils, and*
- (b) Development on land subject to salinity, and*
- (c) The removal of native vegetation, and*
- (d) Development on land that is subject to regular or permanent inundation, and*
- (e) Development on land that is within significant karst environments.*

The property is identified as being sensitive land (land subject to steep slopes). Maximising existing slope and with some earthworks for services & roads, the development will contain an acceptable gradient (no greater than 20%). The location of future dwellings on each allotment will further take into consideration the levels of the land. Larger allotment sizes have been proposed for the steeper allotments.

The sensitive land map is shown below:

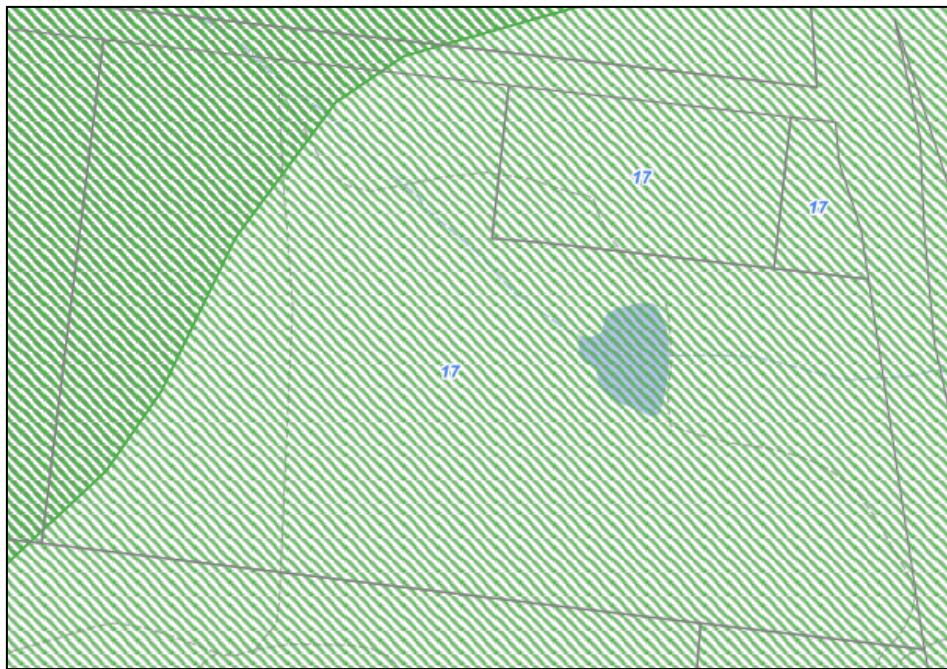


Figure 6 - Sensitive Lands

Clause 7.10 Essential Services

Electricity and telecommunication services are located within the vicinity of the development. As such the new allotments in the subdivision will be provided connections to these essential services. Appropriate consent conditions were imposed on the original consent in accordance with utility authority standards and statutory requirements. As such these conditions will remain and not be impacted from the modification.

The development will have connections to Council's reticulated water and reticulated sewer services. Conditions were placed on the original consent and will not be impacted by the modification.

The land is deemed suitable for the proposal and is considered to comply with Council's LEP 2014.

State Environmental Planning Policies

The original application was assessed in accordance with the provisions of the relevant SEPPs in force at the time of assessment and was found to be compliant (I.e. State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011, State Environmental Planning Policy 44 – Koala Habitat Protection and The State Environmental Planning Policy (Infrastructure) 2007.

Given the amended layout and proposed additional allotments, the development was re-assessed under all SEPPS as per the following:

State Environmental Planning Policy (Biodiversity and Conservation) 2021
Chapter 6 Sydney Drinking Water Catchment

The subject property, which has been inspected by Water NSW, is located within the Warragamba catchment which forms part of Sydney's water supply.

Based on the site inspection and the information provided, Water NSW is satisfied that the proposed development can achieve a neutral or beneficial effect (NorBE) on water quality provided appropriate conditions are included in any development consent and are subsequently implemented.

State Environmental Planning Policy (Biodiversity and Conservation) 2021
Chapter 4 Koala habitat protection 2021

The land has an area greater than 1 hectare and therefore must take into consideration the SEPP. Clause 4.9 (2) of this SEPP applies to the development application and includes the following:

Before a council may grant consent to a development application for consent to carry out development on the land, the council must assess whether the development is likely to have any impact on koalas or koala habitat

Many of the trees listed within the SEPP are common within the Lithgow Local Government area, however core koala habitat within this area is rare, with only 12 koala sightings ever reported on private land within the LGA. The nearest sighting to the subject site is over 5kms away.

It is considered that the area is not classed as critical habitat for koala under this SEPP and all clearing of native vegetation is mainly for asset protection zones as per the Rural Fires Act. As part of the Arboriculture Report prepared by Meredith Gibbs it stated that 'overall the trees within the proposed asset protection zone are predominantly in poor health and not worthy of retention within an urban setting'. Given that the proposed development require the removal of minimal trees, it is considered koala habits will not be impacted or impede movement between koala habitats. Because of this, the proposal is categorised as Tier 1 development having (low impact) under the Koala Habitat Protection Guidelines and development consent can be granted in accordance with the clause above.

State Environmental Planning Policy (Resilience and Hazards) 2021
Chapter 4 Remediation of land

Council is satisfied that the land is not contaminated under the SEPP as the property have been vacant land and is surrounded by residential dwellings (within the Marrangaroo Estate) and NSW Forestry Corporation. The property has not previously or is currently being used by any activities as specified under Table 1 of the contaminated land planning guidelines.

State Environmental Planning Policy (Transport and Infrastructure) 2021

State Environmental Planning Policy (Transport and Infrastructure) 2021	
Clause	Compliance
2.10 Consultation with Councils- development with impacts on council-related infrastructure or services	Yes
2.98 Development adjacent to rail corridors	Yes
2.99 Excavation in, above, below or adjacent to rail corridors	Yes
2.100 Impact of rail noise or vibration on non-rail development	Yes

Comment: Consultation (for the original application and for the modification) with Council's Infrastructure Department and Water and Waste Water Department, has been undertaken for the proposed development through the submission of the application in relation to impacts on existing infrastructure. It is considered that upgrades to sewer and water are required given the infrastructure to be transferred to Council after the subdivision certificate has been released. The stormwater design will also be adequate, so not to impact on existing services.

The original assessment stated that some development will be immediately adjacent to the rail corridor with excavation in and above the existing rail corridor. Given that the proposed modification does not propose to amend the original conditions or have any additional impacts on the rail corridor, no further assessment under the SEPP is required.

5.3.2 Any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority

Nil.

5.3.3 Any Development Control Plan

The original application was assessed against the Marrangaroo Development Control Plan as a comparison given the proximity of the development to the existing Marrangaroo Fields subdivision. The original development was found to suitable comply with the DCP.

Given that the modification involves an additional 4 new allotments from the original approved development, the modification is assessed against the current DCP 2021.

Lithgow Council's Development Control Plan 2021

Development Control	Assessment Comments
Chapter 2 – Site Requirements	
2.2 Site Analysis, Local Character & Context	
2.2.1 Site Selection	The development is permissible in the zone and complies with the zone objectives. The development is

	consistent with surrounding landuses being for residential purposes.
2.2.2 Site Analysis & Development Response	The development has taken into consideration the topography of the land, climate and natural environment.
2.2.3 Local Character & Context	<p>The proposed subdivision will create additional residential allotments, that will be consistent with the character and context of the locality. The development has been designed to complement existing features of similar development in the area.</p> <p>The land is considered generally suitable for residential development and will comprise an acceptable urban extension that integrates with the existing built environment that is consistent with the immediate surrounds.</p>
2.3 Slope Response & Earthworks	
2.3.1 Slope & Site Design	<p>The proposed development will have no significant impact on soils. There is no reason to believe the site would be affected by contamination. Conditions of consent will be imposed to control erosion and sedimentation impacts on the site and therefore it is considered there will be minimal impacts on soils. The property contains a relatively flat topography. All earthworks for the development includes works to be undertaken for the connection to services.</p> <p>As such satisfactory conditions will be placed on the consent for soil and erosion controls.</p>
2.4 Stormwater Management	<p>The applicant proposes to amend the stormwater management system to a "Filterra" bioretention basin. The bioretention basin and stormwater model was assessed by Council's Development Engineer and WaterNSW.</p> <p>As the new "Filterra" bioretention basin has been endorsed by Council, condition 71 on the consent is recommended to be amended - from a period of 12 months to a period of 36 months.</p>

	Amended conditions have been imposed on the consent in relation to stormwater management.
2.5 Vehicle Access & Parking	
2.6.1 Guidelines & Standards	The modification proposes a minor change to the original road layout and design, with minor amendments to conditions. Refer to previous comments in this report under "summary".
2.6.2 Vehicle Access & Driveways	Refer to above comments.
2.9 Utilities, Easements & Infrastructure	
2.9.1 Connection to Utilities	The modification proposes a minor change to the original road layout and design, with minor amendments to conditions. As such no additional impacts from the modification is expected to occur with suitable conditions remaining on the consent.

Development Control	Assessment Comments
Chapter 3 – Natural Environment & Hazards	
3.2 Bush Fire Prone Land	
<i>Note: Section 4.14 of the Environmental Planning and Assessment Act requires a consent authority to be satisfied a development conforms to the specifications and requirements of Planning for Bushfire Protection prior to granting consent.</i>	The property is bushfire prone and the development is "integrated development" requiring approval by the NSW Rural Fire Service. Approval was granted with conditions by the RFS.
3.3 Biodiversity & Vegetation Clearing	
	Parts of the property is identified as containing significant biodiversity. This is further identified as Endangered Ecological Community (EEC) being Tableland Granite Grassy Woodland (Southern Tableland Grassy Woodland). All of these areas will be retained on the site. Therefore, no significant adverse impact on ecological values or significant flora and fauna is expected.
3.4 Land & Soils	
	The property is identified as being sensitive land (land subject to steep slopes). Maximising existing

	slope and with some earthworks for services & roads, the development will contain an acceptable gradient (no greater than 20%). The location of future dwellings on each allotment will further take into consideration the levels of the land. Larger allotment sizes have been proposed for the steeper allotments.
3.5 Flood Prone Land	
	The site is flood affected by a minor water ponding/overland flow (approximate 300mm in deepest area) as shown below 1% AEP (100 years) flood map. The water ponding/overland flow will be removed once the subdivision and associated stormwater management device has been completed. The subdivision and stormwater management system has been designed in concept to ensure no adverse impact on adjoining properties. A Flood Impact Report was submitted with the application that reinstated Council's Development Engineers response above.
3.6 Ground & Surface Water Protection	
	The property is subject to groundwater vulnerability. The development is designed and will be managed to avoid any significant adverse environmental impact. The development is not expected to have contamination impacts as the use of the land will remain.

Development Control	Assessment Comments
Chapter 5 – Subdivision, Consolidation, Boundary Adjustments & Roads	
5.2 Site Selection, Analysis & Design Response	
5.2.1 Site Analysis & Potential Land Use Conflicts	As stated above under Chapter 2.
5.2.2 Water, Natural Environment & Hazards	The development will have no impact on the water course, stormwater or significant vegetation.
5.2.3 Lot Sizes, Dimensions & Suitability	Refer to previous comments in this report under "summary".
5.2.4 Access & Entrances	Assessed by Council's Engineering Department, with no objection subject to the original conditions remaining on the consent.
5.2.5 Utilities/ Easements	The modification proposes a minor change to the original road layout and design, with minor amendments to conditions. As such no additional impacts from the modification is expected to occur with suitable conditions remaining on the consent.

5.3 Urban Residential Subdivision	
5.3.1 Lot Size & Arrangements – General	Refer to previous comments in this report under “summary”.
5.8 New or Upgraded Public Roads	
5.8.1 Engineering Guidelines	Assessed by Council’s Engineering Department, with no objection subject to the original conditions remaining on the consent.
5.8.2 Surrounding Road Patterns & Access	Assessed by Council’s Engineering Department, with no objection subject to the original conditions remaining on the consent.
5.8.3 Road Hierarchy & Design	Assessed by Council’s Engineering Department, with no objection subject to the original conditions remaining on the consent.
5.8.4 Terminating Roads (Cul-de-sacs)	Conditioned on the consent.
5.8.5 Crown Roads	Conditioned on the consent.
5.8.7 Public Domain Landscaping & Street Trees	Conditioned on the consent.
5.8.8 Naming of New Roads	Conditioned on the consent.

5.3.4 Any planning agreement that has been entered into under Section 7.4, or any draft planning agreement that a developer has offered to enter into under Section 7.4?

Planning Agreements

A voluntary planning agreement was undertaken for the original application between the developer and Council. The contribution will cover embellishments of the existing playground within the Marrangaroo Estate being \$50,000 and a general contribution to community facilities.

The contribution proposed by the developer is \$1700 per lot created. As such the Planning Agreement will be amended to reflect the additional number of allotments; that being 65 lots with a total contribution of \$110,500.

5.3.5 Any matters prescribed by the regulations that apply to the land

There are no demolition works, rebuilding or extension of the building is proposed as part of this application.

5.3.6 The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

The original assessment of the application took into consideration the likely impacts of the development such as adjoining landuses, sewer, water, services, amenity, access, transport and traffic, pedestrian access, soils, flora and fauna, natural hazards, noise and vibration, and streetscape.

The modification does not propose to amend or create additional impacts from the original assessment. As such conditions on the consent will remain or amended as required.

5.3.7 The Suitability of the site for the development

The land is currently zoned for residential purposes and therefore is strategically suitable to allow increased housing demands within the Lithgow area. The larger allotment sizes are only available further out of Lithgow CBD and this development is still within close proximity, allowing for condensed development to the city hub. The land was recently reviewed as part of the LEP 2014 process and found that it would be suitable for future residential allotments and was appropriately zoned.

The upgrade of the bridge and other utilities will allow for appropriate development of the site to a standard that is acceptable for residential uses close to the Lithgow township. Given the development is compatible with the zone it is considered that the site is suitable for the proposal.

5.3.8 Any submissions made in accordance with this Act or the Regulations

The proposal was sent to Endeavour Energy, Rural Fire Service, WaterNSW, Transgrid Council's Infrastructure Department and Council's Water and Sewer Officer, for commenting with recommendations detailed below. The application was also notified to adjoining landowners with nine (9) submissions received. The submissions are outlined below:

WaterNSW

Reference is made to WaterNSW referral received 23 August 2023 in response to Council's Planner's referral dated 10 January 2023.

WaterNSW has no objection to the application subject to conditions on the consent. The conditions are detailed under Schedule A.

TRANSGRID

Please be advised there is no impact to Transgrid, therefore no assessment is required.

RURAL FIRE SERVICE (RFS)

Reference is made to The Rural Fire Service referral received 27 June 2023 in response to Council's Planner's referral dated 10 January 2023.

The Rural Fire Service has no objection to the application subject to conditions on the consent. The conditions are detailed under Schedule A.

ENDEAVOUR ENERGY

Reference is made to Endeavour Energy's referral received 30 January 2023 in response to Council's Planner's referral dated 10 January 2023.

Endeavour Energy has no objection to the application subject to conditions on the consent. The conditions are detailed under Schedule A.

COUNCIL'S ENGINEER

Reference is made to Council's Engineer's referral received 14 August 2023 in response to Council's Planner's referral dated 10 January 2022.

The modification proposes an amended water quality treatment device that involves a proposed "Filtterra" bioretention basin. This bioretention basin was accepted by Council's Director of Infrastructure; Jonathon Edgecombe, on 14 August 2023.

As such, Council's Engineer has no objection to the application subject to conditions on the consent. The conditions are detailed under Schedule A.

COUNCIL'S WATER, WASTEWATER AND WASTE

Reference is made to Council's Water, Wastewater and Waste Officer's referral received 26 July 2023 in response to Council's Planner's referral dated 10 January 2022.

Council's Water and Sewer Officer has no objection to the application subject to conditions on the consent. The conditions are detailed under Schedule A.

PUBLIC SUBMISSIONS

During the notification period for the modification of consent, nine (9) submissions were received. Taking note that the notifications were undertaken prior to the applicant withdrawing some condition requests after Council's consultation with the applicant indicating their own concerns. As such, the submissions from the surrounding residents identified the following concerns:

1. Impacts of the proposed and existing infrastructure (drainage, sewer and electricity),
2. Potential impact from the Emergency Access via Road 2,
3. Certainty that the bridge would be constructed,
4. Guarantee that the existing bridge would not be utilised for the construction of the subdivision,
5. Suitability and safe access for the existing Marrangaroo Field residents, for the future of the subdivision and during construction given the increase in traffic movements, as the bridge is only formal access to the Highway. Concerns are further raised with large vehicles utilising the proposed right of carriageway to the rail boom gates.
6. The removal of the footways would create safety issues, including around the streets, playground and bus stops.

Council's Assessment Officer's Response:

1. All infrastructure assets will be required to be upgraded to comply with all legislations, this includes providing an adequate bioretention system for drainage purposes. As for during the development period, the electricity supply and telecommunications will be undertaken by the relevant authorities. The modification as such will incur additional impacts from the original assessment of the application in this regard.
2. The original approval contained an emergency access road within the same corner of the property as the proposed modification. As shown in the plans earlier in this report, the emergency access road will be provided from the end of the cul de sac rather than between proposed allotments on the original approval. As such it is considered that the location of the amended emergency access road will be shorter in length and limit impacts to potential new property owners. The location of the amended access road is therefore considered to be more beneficial and suitable for

- the development. The original conditions relating to the emergency access road will remain on the consent.
3. The modification does not propose to amend the bridge construction and as such the original conditions remain on the consent stating:

Condition 56: That the bridge and intersection construction is to be completed and signed off by a Structural Engineer, Council, John Holland Rail Pty Ltd and the Roads and Maritime Services prior to a Construction certificate being issued relating to the proposed subdivision. (NB – The issue of the construction certificate for subdivision works cannot occur until the bridge and intersections are completed in accordance with this condition).

4. The construction of the new bridge would be utilised for the subdivision.
5. As previously stated the new bridge is to be constructed prior to the issue of a Construction Certificate for the subdivision development. The modification is not proposing to amend or create additional impacts to the existing Marrangaroo Estate then what was previously assessed as part of the original assessment.
6. The footpath conditions will remain on the consent.

5.3.9 The public interest

As per the original assessment of the application, Council makes the following note:

Bridge: Upgrading of the bridge is within the public interest as it will allow for a safer access to the Marrangaroo Estate area and the new subdivision. This bridge will meet current legislative requirements and be a positive outcome for the area.

Roads: The development requires additional roads to service all the allotments within the subdivision. As a result, these roads will be dedicated to Council. Therefore, Council is required to be satisfied that these roads will be at a standard acceptable to be the roads authority. This is of public interest as the additional roads will be required to be maintained by Council resulting in future costs to the community.

Sewer: The development requires additional connections to Council's reticulated sewer. This requires potential upgrades of existing services to allow for the additional loadings. The cost of these of upgrades will be borne by the developer; however the ongoing maintenance of the services will be the responsibility of Council. It is important for Council to ensure that these services are properly provided to minimise potential unnecessary maintenance in the future. This is of public interest as there are additional sewer services that will be required to be maintained by Council resulting in future costs to the community.

Water: The development requires additional connections to the reticulated water services. This requires potential upgrades of the existing pumping mechanisms to allow for the additional loadings. The cost of these of upgrades will be borne by the developer; however the ongoing maintenance of the services will be the responsibility of Council. It is important for Council to ensure that these services are properly provided to minimise potential unnecessary maintenance in the future. This is of public interest as there are additional water services that will be required to be maintained by Council resulting in future costs to the community.

6. DISCUSSION AND CONCLUSIONS

The proposal is considered to generally comply with the relevant provisions of the applicable Environmental Planning Instruments. The proposal is not considered likely to have any significant negative impacts upon the environment or upon the amenity of the locality. As such it is recommended that development consent is issued subject to the conditions outlined below.

7. ATTACHMENTS

Schedule A- Conditions of consent.

8. RECOMMENDATION

THAT the Section 4.55 Modification of Consent application No. MODDA052/22 associated with DA245/13 be approved subject to the following amended and additional conditions:

Amended Conditions:

- 1 - Applications/Approvals,
- 2 - Planning Agreement,
- 4 - Subdivision Certificate,
- 7 - Right of Carriageway,
- 17 - Emergency Access Road
- 28 - Farmers Creek Pump Station,
- 59 - Batters (Engineering Requirements),
- 60 - Road Grade,
- 63 - Road Construction,
- 71 – Bioretention Basin Maintenance Bond,
- 89- Bushfire Requirements,
- 109 - WaterNSW (Sydney Catchment Authority) Requirements,
- 111 to 113 and 115 to 125 WaterNSW (Sydney Catchment Authority) Requirements,

Additional Conditions:

- 108a & 108b - Transport for NSW (Rail Requirements) and
- 125a - Endeavour Energy Requirements.

Report prepared by: Lauren Stevens

Manager: Jim Sheehan

Signed:.....

Signed:.....

Dated:.....

Dated:.....

REASONS FOR CONDITIONS

The conditions in Schedule A have been imposed for the following reasons:

- To ensure compliance with the terms of the relevant Planning Instruments
- To ensure no injury is caused to the existing and likely future amenity of the neighbourhood
- Due to the circumstances of the case and the public interest.
- To ensure that adequate road and drainage works are provided.
- To ensure that satisfactory arrangements are made to satisfy the increased demand for public recreation facilities
- To ensure access, parking and loading arrangements will be made to satisfy the demands created by the development.
- To protect the environment.
- To prevent, minimise, and/or offset adverse environmental impacts.
- To ensure lots are adequately serviced.
- To ensure there is no unacceptable impact on the water quality.
- To ensure compliance with the requirements of the Rural Fire Services.
- To ensure adequate soil conservation and protect against movement of soil and sediments.

Schedule A

Conditions of Consent (Consent Authority) and General Terms of Approval (Integrated Approval Body)

Please Note: It should be understood that this consent in no way relieves the owner or applicant from any obligation under any covenant affecting the land.

ADMINISTRATIVE CONDITIONS

1. That the development be carried out in accordance with the application, **Modification of Consent Mod002/21, Modification of Development Consent MODDA052/22**, Statement of Environmental Effects, accompanying information, plans listed in the approval and any further information provided during the process unless otherwise amended by the following conditions.

**-AMENDED AS PER MOD002/21,
-AMENDED AS PER MODDA052/22**

2. The Applicant must enter into a planning agreement under section 93F of the *Environmental Planning and Assessment Act 1979* with Council that is in the terms outlined in the email correspondence containing the offer dated 23 February 2015. The general terms of the agreement will be that the developer shall make a contribution of \$1,700 per additional residential allotment for community facilities in the local government area and an additional \$50,000 to the improvement/embellishment of the existing park/playground in Girraween Drive, Marrangaroo. Such agreement must be entered into prior to the issue of a Construction Certificate for subdivision works.

The Planning Agreement is to be amended as per the amended lot layout as per MODDA052/22.

-AMENDED AS PER MODDA052/22

3. That a Subdivision Certificate Application be lodged to Council for approval.
4. That the subdivision release fee, Registered Surveyors Plans **(original & 11 copies)** along with associated 88B instrument, be submitted to Council for finalisation following the compliance with all conditions of this consent. **The Subdivision Certificate Application is to be lodged through the NSW Planning Portal with satisfactory evidence indicating that all conditions have been satisfied.**

-AMENDED AS PER MODDA052/22

5. The applicant shall consult with an Authorised Telecommunications, Electricity and Gas Authorities for the provision of underground telephone, electricity, and natural gas services to each allotment. A Notification of Arrangement or confirmation of connection be supplied from each of the authorities is to be lodged with Lithgow City Council prior to the release of a final 'Subdivision Certificate'.
6. An application shall be submitted to Council for the supply of a Certificate of Compliance under Section 305 of the Water Management Act. A Final Subdivision

Certificate shall not be issued until such time as a Certificate of Compliance has been issued under Section 307 of that Act at full cost to the applicant.

7. All right of carriageways are to be maintained until a legal alternative access arrangement can be made for landowners of **Lots 711 and 712 DP 1287027** (originally Lot 701 DP1135310).

-AMENDED AS PER MODDA052/22

8. That no driveway access is to be provided from the existing track and level crossing south of the subdivision. This access is to be fenced at the boundary of existing Lot 702 DP1135310, and locked with appropriate mechanisms to allow emergency services and Council access only.
9. The owner's Operational Environmental Management Plan, as required by Condition 119, is to be provided to each future owner of the lot by a positive covenant on the 88B instrument for each associated allotment. Wording is to be provided and approved by Council prior to the Subdivision Certificate release.
10. That a validation Report pertaining for any fill brought to the site is to be submitted to Council prior to the materials being placed onsite.
11. If the development is likely to disturb or impact upon telecommunications and electricity infrastructure, written confirmation from the service provider that they have agreed to the proposed works must be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate or any works commencing, whichever occurs first; and
12. The arrangements and costs associated with any adjustment to telecommunications and electricity infrastructure as per Condition 11 above shall be borne in full by the applicant/developer.
13. Council's Environment and Development Department must be contacted to arrange the appropriate address numbers to be allocated to the subdivision prior to Subdivision certificate release.
14. The applicant shall place a restrictive covenant on the title of each allotment under the provision of Section 88B of the Conveyancing Act prohibiting the use of coal burning appliances. The 88B instrument shall vest authority in Council for the covenant.
15. The applicant shall submit options for road names to Council for consideration in accordance with the NSW Road Naming Policy 2013. The road names for the subdivision will be required to be gazetted prior to release of the Subdivision Certificate.
16. That secure fencing along the rail corridor to prevent unauthorised entry to the rail corridor is required. This may be in the form of a 1.8m chain wire fence or similar to prevent access to the rail corridor. This shall be installed prior to Subdivision Certificate release.
17. ~~Prior to Lot 62 being dedicated to Council, the track is to be upgraded to a suitable standard as determined by Council's Group Manager Operations.~~

Prior to the emergency access road (located within the south eastern corner of the property) being dedicated to Council, the track is to be upgraded to a suitable standard as determined by Council's Group Manager Operations. This emergency access road is to further run within the current Lot 72 DP1282868 boundary and connect directly to Mount Walker Road from the new road. The emergency access will not be permitted to be redirected through private property.

Physical access for Lots 711 and 712 in DP 1287027 (previously known as 701 in DP 1135310, is to be maintained throughout the construction process. The developer is to consult with the landowners of both lots throughout all construction works.

-AMENDED AS PER MODDA052/22

Water & Wastewater Requirements

18. Approval for water and sewer works as per Section 68 of the Local Government Act 1993 shall be required prior to release of Construction Certificate.
19. The applicant shall provide detailed sewerage design, including longitudinal sections for each main, minimum depth and cover, maximum depth, grade, chainage, inverts, size, depths, manholes, manhole numbers, manhole depths, pipe velocity, proposed material and positions of junctions and dead ends for all Lots.
20. Maximum grades are to be approved subject to appropriate design and approval from Lithgow City Council for gravity sewer design purposes.
21. Where appropriate, the Applicant is to obtain owners consent for any easements required for water and sewer works prior to release of the Construction Certificate.
22. The applicant shall consult with Council's Water and Wastewater Department regarding the point of water and sewer connections prior to the submission of the Construction Certificate.
23. Sewer mains shall not impede storm water detention basin. The applicant shall provide detailed information regarding any bypass, piercing, or cement lining prior to the release of the Construction Certificate.
24. The applicant shall obtain approval to under bore the railway line for any water or sewer works from relevant authorities prior to the issue of the Section 68 Approval under Local Government Act 1993 and the release of the Construction Certificate.
25. The sewerage design shall include gravity connections for each proposed Lot. Privately owned Low Pressurised Sewer Systems and Package Pump Stations shall not be accepted.
26. Sewer mains located within lots adjacent to stormwater drainage lines shall be a minimum of 750 mm clear of the stormwater pipe.
27. Easements are to be created over all water and sewer infrastructure unless they are within the road reserve.

28. Upgrade works to Farmers Creek Pump Station shall be completed at the applicants full cost, including:

- (a) ~~The two (2) existing pumps shall be replaced. The replacement pump type and size shall be determined by Council's Water and Wastewater Department. The pumps are to be to a "Duty Assist" setup.~~
- (b) ~~Increase in wet weather storage, to provide a minimum Eight (8) hours Peak Wet Weather Flows.~~
- (c) ~~Upgrade of power supply as required to meet all requirements of the electricity supplier and Council requirements. An Electrical design report to be submitted prior to approval under Section 68 of Local Government Act 1993 and Construction Certificate Approval.~~
- (d) ~~Full design details for Pump Station upgrade works to be submitted to Council prior to the release of the Construction Certificate.~~

1. The approved development is subject to Water and/or Sewerage Development Contributions. Contributions are levied in accordance with Section 64 of the Local Government Act 1993 which allows council to exercise this function pursuant to Division 5 of Part 2 of Chapter 6 of the Water Management Act 2000.

2. Development Contributions are levied in accordance with the Development Service Plans for Water Supply and Sewerage enforce at the time of payment. The amount of the contribution per Equivalent Tenement is published in Council's adopted Fees and Charges. Contributions are subject to annual CPI increases.

3. The number of Equivalent Tenements in a development is determined using the methodology and definitions as described in the Water Directorate Section 64 Determinations of Equivalent Tenements Guidelines, April 2017. Council will make a copy available to the applicant for the purpose of determining the contribution amount.

4. An application for the Certificate of Compliance for all Water and Sewerage Supply works is to be submitted by the applicant at the completion of the works and prior to Subdivision Certificate or Occupation Certificate. This application is to be accompanied by all plumbing, drainage and civil works details associated with the water and sewerage supply including Work as Executed drawings.

5. A Certificate of Compliance issued under the Water Management Act 2000 only covers the water supply and sewerage supply works that are not defined as plumbing and drainage work within the meaning of the Plumbing and Drainage Act 2011.

6. A Certificate of Compliance must be issued prior to the release of the Subdivision Certificate/Occupation Certificate. In accordance with Section 306(2) Water Management Act 2000 a precondition to the issue of the Certificate of Compliance is the payment of Development Contributions and that all water and/or sewerage conditions of consent are satisfied.

7. In accordance with Section 307 Water Management Act 2000 Council may impose a requirement on the applicant to address outstanding matters. Where a matter remains unresolved Council may be satisfied that a requirement has been complied with if the applicant lodges with the Council such security to cover the cost of ensuring full compliance.

-AMENDED AS PER MODDA052/22

29. All Water and Sewer works, including minimum and maximum flows and velocities, shall be designed in accordance WSA code.
30. Full vehicular access and easements shall be provided to all sewer man holes.
31. The applicant shall provide detailed water design details to include a ring main design. The new water supply network shall connect into the Fish River network via two points of connection, being Bundarra Place and the Great Western Highway.
32. The design of water reticulation shall generally be in accordance with the latest version of the Water Services Association of Australia (WSAA) "Water Supply Code of Australia" (WSA 03).
33. The applicant shall obtain approval for any water supply works within the Rail Corridor from relevant authorities prior to the issue of the a Section 68 Approval under Local Government Act 1993 and the release of the Construction Certificate.
34. All cost incurred by the applicant/developer in connecting to the Fish River Water Supply shall be at the applicants/developers cost.
35. The applicant shall provide fire flow analysis for all water supply networks prior to the release of the Construction Certificate, to ensure that the network is capable of providing the performance for the design of pressure for spring hydrants. Maximum spacing of hydrants shall be 60 metres.
36. Construction Certificate design drawings and specifications shall clearly address the following:
 - (a) Location of pipelines, valves, hydrants, pipe materials, size, pressure class, jointing methods and corrosion protection measures.
 - (b) Specifications for products, materials, site investigation, excavation/trench details and other technical matters.
 - (c) Documentation of design assumptions, constraints and issues relevant to the design and not otherwise noted in the Concept Plan.
37. Water supply design to provide Desirable Minimum Static Pressure of 350kpa. Static Pressure shall not to exceed 500kpa at each house hold boundary.
38. Stop (dividing and isolating) and control valves shall be positioned to give required control of the system and to provide an alternative means of supply when a distribution main is taken out of service.
39. Minimum and maximum allowable service pressures will not be exceeded in each zone.

40. Minimum and maximum flows and velocities shall be in accordance with the WSAA Code.
41. A geotechnical report for sewer and water shall be submitted to Council prior to the release of the Construction Certificate. All Pipe and fitting materials must be suitable for application and environment.
42. The spacing and positioning of valves shall allow for isolation of individual zones.
43. Water mains shall only be installed in undisturbed ground as per WSAA code.
44. All stop valves shall be anticlockwise closing and be positioned at a minimum of every 300 metres. Valves shall be positioned adjacent to branch take offs.
45. Each lot shall have an individual water meter, which shall be purchased from Council at the applicants full cost. Water meter numbers associated with each lot shall be provided to Council prior to the issue of a Subdivision Certificate.

Amenity

46. The applicant shall ensure that during the construction works all measures are taken to eliminate/suppress any dust nuisance emanating from the site.

Engineering Requirements

47. That a Construction Certificate be obtained prior to the commencement of any works.
48. That a Geotechnical Report be provided relating to the bridge design prior to a Construction Certificate being issued.
49. That a Geotechnical Report be provided for all proposed roads, including subgrade design prior to a Construction Certificate being issued.
50. ~~That the approval of John Holland Rail Pty Ltd for the final bridge design be obtained prior to the issue of a Construction Certificate.~~

Prior to the issue of a construction certificate for the bridge over the Main Western Railway, the engineering design and specification for the bridge must be completed by personnel with appropriate engineering qualifications on behalf of the applicant/owner and endorsed by John Holland Rail on behalf of Transport for NSW.

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51. That the intersection design details for bridge be provided prior to the issue of a Construction Certificate. This covers the design of both approach intersections.
52. That the intersection of new bridge and Great Western Highway is to be approved by Roads and Maritime Services prior the issue of a Construction Certificate.
53. That full vehicular access to Marangaroo Fields be maintained during all works.

54. That the new bridge is to accommodate (as a minimum) a 3.5m traffic lane, 2 x 1m shoulders, 1 x 1.5m footpath and 2 x 0.75m safety barriers.
55. That the bridge and both intersections (Great Western Highway to bridge and Girraween Drive to bridge) is to be designed to accommodate all general access vehicles as per Roads and Maritime Services and Austroads specifications.
56. That the bridge and intersection construction is to be completed and signed off by a Structural Engineer, Council, John Holland Rail Pty Ltd and the Roads and Maritime Services prior to a Construction certificate being issued relating to the proposed subdivision. *(NB – The issue of the construction certificate for subdivision works cannot occur until the bridge and intersections are completed in accordance with this condition).*
57. That the road crossfall not exceed a maximum of 3%.
58. That the footpath crossfall not exceed a maximum of 4%.
59. That all batters do not exceed a maximum of 1:5.

All batters are to comply with the provisions of 2.3.4.4 of the Lithgow City Council Engineering Design and Construction for Development Guidelines.

Note: all batters adjacent to proposed residential lots do not exceed a maximum of 1:4 for demonstrating potential driveways for proposed lots can be constructed in accordance with AS2890.1 – the maximum gradient of domestic driveways shall be 1:4 (25%).

-AMENDED AS PER MODDA052/22

60. That the maximum road grade does not exceed 12%.

Road grades are to be determined by and comply with the provisions of 2.3.5.2 of the Lithgow City Council Engineering Design and Construction for Development Guidelines.

-AMENDED AS PER MODDA052/22

61. Plans are to be lodged to Council for the issue of a Construction Certificate prior to the commencement of any Civil Works.
62. All engineering works are to be to the standard specified in Council's "Guidelines for Civil Engineering Design and Construction for Development". This document is available on Council's website or upon request from Council's administration desk.
63. Internal roads shall have a minimum of 150mm (subject to testing) of DGB-20 road base applied and compacted providing a smooth transitional surface. The road surface of roads **01, 02, 03, 04 and 05** are to be constructed to an 8m wide formation within a 15m minimum road reserve. The road surface of ~~road 01~~ **the main road in the Plan of Subdivision by Voerman & Ratsep CAD File – 21130B04a (connecting to Bundara Close)** is to be constructed to a 11m wide formation within a 20m

minimum road reserve. Where appropriate roads are to be surfaced with a finished seal to 14/7 hot bitumen spray. Turning circles are to be 40mm hotmix/AC Roll top kerb and guttering is to be provided on both sides of all internal roads. Geotechnical compaction tests and visual deflection testing are to be undertaken and to be approved by Council prior to the application of seal.

-AMENDED AS PER MODDA052/22

64. 2 x 3.5m wide footways are to be provided adjacent to all internal roads. In addition, one 1200mm wide, 120mm thick concrete footpath is to be constructed adjacent to each internal road. Linkages within the existing Marrangaroo Estate from the new subdivision should be provided using footpaths to the existing playground area and the new bridge construction.
65. Cul-de-sacs are to be constructed at all dead-ends so that a minimum kerbline radius of 9.5 metres is achieved from the centre of the cul-de-sac. The boundary of the road reserve should be curved with a minimum radius of 14 metres, to provide for a 4.5 metre wide footpath. Where the head of the cul-de-sac is located on the low side of the road, special provision should be made to convey overland storm water flows through easements or drainage reserves.
66. Street signs are required at all road junctions. Signs shall be purchased from Council. The location of proposed street signs is to be shown on the Engineering Drawings submitted with the construction certificate.
67. Traffic signs, traffic signals, pavement markings, guide posts, delineators, safety barriers and the like, whether permanent or temporary, are to be designed and installed at all roads in accordance with guidelines contained within the Austroads publication, "Guide to Traffic Engineering Practice - Part 8: Traffic Control Devices", Australian Standard 1742 - Manual of Uniform Traffic Control Devices and the Roads and Traffic Authority "Road Design Guide". All traffic control devices and signage are to be detailed in the engineering drawings submitted with the construction certificate. The consent of Lithgow City Council's Group Manager of Operations or appointed officer will be required prior to the installation of any traffic control devices on existing roads.
68. Two street trees per lot are to be planted within the road reserve. The developer shall consult with and seek approval from Council regarding the species to be used. Only non-frangible trees, having a mature diameter of less than 100mm, shall be planted near road verges and medians. A landscaping plan showing, but not limited to, plant species and estimated height and spread of mature trees is to be provided to Council with the construction certificate.
69. Street lighting shall be provided on all internal access roads in accordance with Australian Standard 1158 - Road Lighting. Energy absorbing columns may be required where fallen columns would be particularly hazardous. The use of energy-saving lighting fixtures is encouraged; however no rebate will be issued to the developer if these types of lamps are approved.
70. A fully certified traffic control plan and road works signage will be required where machinery may obstruct traffic on any Public Road whilst construction work is being

undertaken. A traffic control plan and certification of fully qualified contractors/persons will be required to be submitted to Council prior to any work commencing on the shoulder of any Public Road. Failure to comply may result in Work Cover Intervention and may also include Council stopping all work immediately until such time the developer complies with suitable traffic management procedures.

71. a) A maintenance bond of 5% of final construction costs shall be paid to Council upon final inspection and approval of all civil works. The value of the maintenance bond shall be approved by Council after witnessing a certified copy of the contract documentation showing all civil construction costs for the subdivision. The maintenance period will start from the date of final inspection for a period of 12 months. At the conclusion of the 12 month period a final inspection is to be undertaken by Council at the request of the developer to determine if any defects have arisen during this time. All deficiencies are to be rectified by the developer, should outstanding works remain Lithgow City Council reserves the right to expend bond monies on rectification works.

b) A separate maintenance bond for the bio-retention basin shall be paid to Council upon final inspection and approval of all works in relation to the bio-retention basin. The value of the maintenance bond shall be approved by Council. The maintenance period will start from the date of final inspection for a period of 2 years. At the conclusion of the 2 Years period a final inspection is to be undertaken by Council at the request of the developer to determine if any defects have arisen during this time. All deficiencies are to be rectified by the developer, should outstanding works remain Lithgow City Council reserves the right to expend bond monies on rectification works.

-AMENDED AS PER MODDA052/22

72. All stormwater drainage is the responsibility of the applicant and shall be satisfactorily disposed of into Council's existing stormwater infrastructure.
73. The following conditions apply to Stormwater Drainage design and construction:
- a) Stormwater Drainage plans shall submitted to Council as part of the construction certificate, drawn at a scale sufficient to show all necessary details, nominally 1:200, 1:500, 1:1000 or 1:2000. The following data is to be included with a contoured catchment area plan:
 - i. Catchment areas and sub-areas, watershed (catchment boundary), overland flow paths, existing and proposed pipe layout. For large catchments, the total catchment area should be shown at a large scale on a separate plan or inset.
 - ii. All sub-areas, drainage lines and pits are to be logically numbered.
 - iii. A schedule of pipe details, including pipe number, size, class, bedding type, joint type, invert levels at inlet and outlet, slope, and length.
 - iv. A schedule of pit details, including pit number, type, road chainage, surface level to the Australian Height Datum (AHD), invert level to AHD, depth, and lintel length.
 - v. North point and legend.
 - vi. Setout information.
 - vii. Accurate position and level of all services and utilities which cross underground drainage pipelines.

- viii. Identify those building allotments adjacent to channels and major storm flow paths which may be liable to flooding in major flood events, and the minimum design habitable floor level adjacent to prevent flooding in the design flood event.
 - ix. Inlet and outlet treatments.
 - x. Measures for the prevention of erosion and sedimentation.
- b) Stormwater Pit construction:
- i. Pits shall be provided in drainage lines at all changes in grade, level, and direction, and at all pipe junctions and shall be spaced at no more than 85m apart.
 - ii. Drainage pits are to conform to Council's standard Drawings, or RTA standards for Classified Roads. Non-standard structures shall be constructed as detailed in the design drawings. Such designs shall comply with AS3600 –Concrete Code, AS4100 – Steel Structures, AS1657 – SAA code for fixed platforms, walkways, stairways and ladders; and any other relevant standard.
 - iii. Pits used for storm water drainage shall be fitted with square lids to distinguish them from sewer manholes.
 - iv. Junction pits shall be fitted with reinforced lids and approved lifting eyes.
 - v. Grated inlet pits shall not be used for street or roadway drainage.
 - vi. Precast pits, incorporating insitu bases, may be used if the prior approval of the pit type and design are approved by the Group Manager of Operations.
 - vii. Every endeavour shall be made to maintain flow velocities through pits. Excessive drops will not be permitted.
 - viii. Pipe grading across pits should be designed on the following basis:
 - No change in direction or diameter - minimum 50mm;
 - Direction change but no change in diameter - minimum 70mm;
 - Changes in pipe diameter should be graded from obvert to obvert;
 - ix. At pit connections, a 3 metre length of approved subsoil drainage pipe enclosed in a geofabric sock shall be placed alongside the main pipe so as to enter the pit at the same invert level and adequately drain the main trench, in accordance with Council's standard drawing EN 1016 (copy attached).
- c) Location of pits in roadways, for the adopted minor drainage system annual exceedance probability:
- i. Inlet pits shall be located so as to restrict the maximum gutter flow width to 2.5 metres.
 - ii. Maximum spacing between any two consecutive pits is 85 metres.
 - iii. Pit bypass flows should be limited to 15% of the gutter flow at that location.
 - iv. At intersections, kerb inlet pits shall be constructed adjacent to the upstream kerb return tangent point where flows exceed 20 litres per second or gutter flow width is more than 1 metre.
 - v. The minimum clearance from the top of the manhole to the design pit water level should be 150mm.
 - vi. The product of flow velocity and depth of flow in the kerb and gutter should not exceed 0.4 m²/s.
 - vii. Kerb inlet pits should be located clear of horizontal curves, pedestrian desire lines, and vehicle driveways.

- viii. Inlet conditions shall be designed so that the potential for blockage by silt and debris is minimised. This may require special treatment of the inlet sump under some conditions.

b) Hydraulic Design

- i. Pit inlet capacities shall be estimated from design charts and formulae, based on lintel size for on-grade pits and depth of ponding for sag pits. The calculated inlet capacity shall be reduced by a factor of 50% for sag pits, and 20% for on-grade pits, on the assumption that debris is preventing some inflow.
- ii. Standard lintel sizes of 1.8, 2.4, 3.0, or 3.6 metres should be used when possible.
- iii. The minimum internal lintel size on a sag should be 2.4 metres.
- iv. The head loss through pits shall be determined from Missouri Charts or other recognised methods.

74. A site investigation is to be performed which is to include logging of test holes to a depth not less than one metre below design subgrade levels (unless rock is encountered). Soil tests shall be taken at the design depth and samples taken for CBR testing in accordance with Australian Standard 1289. The design California Bearing Ratio (CBR) shall be selected following a careful assessment of the materials encountered in the site investigation and the variability of subgrade moisture and density conditions likely in service. The design CBR value should assume poor drainage and shall be determined from soaked CBR. A copy of the site investigation, including test results, is to be included with the Engineering Drawings. Where the design subgrade CBR is below 3, the subgrade shall be chemically stabilised to a minimum depth of 150mm, and the pavement design based on a CBR of 3.

75. Each layer of pavement shall be tested for compaction and deflection as detailed below. The Group Manager of Operations or his delegate must approve each layer prior to the placing and compaction of subsequent layers.

(a) Compaction Testing:

The subgrade, and all pavement layers, shall be density tested in-situ at the start and finish of the work (within the first/last five metres), and thereafter at intervals of no more than 50 metres, or as indicated by Council's Development Engineer. A minimum of two tests will be required for road pavements less than 50 metres in length. At cul-de-sacs, additional testing will be required at the turning head. The test sites selected should be representative of the likely minimum pavement compaction levels achieved. Density testing must be undertaken by an authorised representative of a laboratory registered by the National Association of Testing Authorities (NATA). Density testing may be conducted using either the sand replacement test, nuclear gauge, or other NATA approved method.

Where a nuclear gauge in direct transmission mode is used to determine pavement density, the test method shall comply with RTA Test Method T173. Results of density testing shall be forwarded directly to Council for approval. No pavement layer shall be covered by a subsequent layer until the results of the density testing have been delivered to and approved by Council's Development Engineer. Table 1 below sets out the minimum compaction requirement for each pavement layer.

Layer	Compaction Requirement	Standard
Subgrade	98% standard maximum dry density California Bearing Ratio (CBR) test	AS 1289.E1.1 AS 1289.F1.1
Sub-Base	100% standard maximum dry density	AS 1289.E1.1
Base	100% standard maximum dry density <ul style="list-style-type: none"> • <i>Unbound Materials</i> • <i>Cemented Materials</i> Density in place test California Bearing Ratio (CBR) test	AS 1289.E2.1 AS 1289.E3.1 AS 1289.E3.1 AS 1289.F1.1

Laboratory determination of maximum dry density for pavement materials which have been modified with cement must be undertaken within 4 hours of the cement being added to the material. Materials tested outside this time will be subject to an adjustment to correctly determine the maximum dry density of the sample. For either natural or modified material, the laboratory determination of maximum dry density shall be undertaken at a frequency of no less than one determination for each days production of material.

(b) Deflection Testing:

All pavement layers must be proof-rolled, and approved by Council's Development Engineer prior to the placement of subsequent pavement layers.

The proof-rolling will be conducted using either:

- (i) a roller having a load intensity of seven (7) tonnes per metre width of roller.
- (ii) a tandem axle rigid vehicle, having a maximum load of 15 tonnes per axle group (8 tyres), 12 tonnes per axle group (6 tyres), or 10 tonnes per axle group (4 tyres). Single axle vehicles should have maximum loads of 8.5 tonnes (dual tyres), or 5.4 tonnes (single tyres).

Any movement of the pavement layer under loading will be deemed a failure.

Although not a subdivision requirement at this stage, Council strongly encourages Developers to specify in their contracts the use of Benkelman Beam tests to test for any deflection in the pavement layers, and as a means of quality assurance.

(c) Final Road Profile:

The mean construction tolerance on pavement surface crossfalls should be within $\pm 5\%$ of the design crossfall. The maximum allowable construction tolerance is $\pm 5\%$, and the maximum standard deviation of crossfalls is 5%. The vertical alignment should not deviate by more than 25mm from the value shown on the drawings.

76. All road, drainage, kerb and gutter, water and sewerage reticulation works associated with a development shall be inspected by Council's Operations Department. The whole of the works are to be carried out to the satisfaction of the Group Manager of Operations. Council shall inspect engineering works at the following stages as a minimum:

- Following site regrading and shaping, and prior to installation of footway services;
- Installation of erosion and sedimentation control measures;

- Storm water drainage lines prior to backfill;
- Water and sewer lines prior to backfill;
- Testing of water and sewer lines;
- Subgrade preparation, before placing pavement;
- Establishment of line and level for kerb and gutter placement;
- Completion of each pavement layer ready for testing;
- Road pavement surfacing;
- Completion of works

The developer or contractor shall give Council a minimum 24 hours' notice when requesting an inspection to ensure that development works are not delayed. The developer shall, if required by Council's Development Engineer, submit delivery dockets for all materials used, and all material and performance test results obtained in the development.

77. Works as Executed (WAE) Plans detailing all services and infrastructure are to be prepared by a registered surveyor or professional engineer, and submitted to Council. The WAE plans shall be lodged prior to the release of the linen plan. The applicant is required to submit three complete sets of hard copy plans (one A1-sized, two A3-sized) and one set of electronic plans in AUTOCAD format.
78. A "Work-As-Executed" (WAE) plan is required to be prepared by a Registered Surveyor or professional engineer and forwarded to Council prior to the final inspection. The WAE is to include, as a minimum:
- certification that all works have been completed generally in accordance with the approved plans and specification,
 - any departure from the approved plans,
 - any additional/deleted work,
 - the location of conduits, subsoil lines, stub mains and inter-allotment drainage lines,
 - pipeline long sections showing the constructed invert levels of each pipe at each pit and pipe dimensions,
 - details of overland flow provisions,
 - site regrading areas by new contours, and
 - all other details which have a bearing on the extent of works and their acceptance by Council
79. All Engineering Drawings submitted to Council for approval are to have a title block showing the following:
- Applicant's Name,
 - Consultant's Name, Address, Phone No. and Contact Name,
 - Drawing Number, Sheet Number and Amendment Number,
 - Schedule showing Date and Nature of Amendments,
 - Site Address, including Lot and Deposited Plan (DP) Number,
 - Council's File Reference,
 - Stage Number,
 - Drawing Title,
 - Scale with Scale Bar, and
 - Signature of Authorised Person

Civil Construction

80. Only those areas involved in the construction of the civil works shall be disturbed, with all other areas of the site to be maintained with existing vegetation cover.
81. Construction noise shall be in accordance with the 'Noise Control Guidelines' for construction noise standards. Hours of operation shall be permitted between 7am – 6pm Monday to Friday and 8am – 1pm Saturdays. No heavy machinery work or usage shall be permitted on Sundays or Public Holidays.

TRADE & INVESTMENT- CROWN LANDS REQUIREMENTS

82. Regarding the Crown road reserve intersection between Lot 68 DP813538 and Lot 702 DP1135310, the part of the Crown road reserve that will intersect with the proposed road construction must be transferred to Council.
83. The transfer of the Crown Road to Council will be at full cost of the applicant prior to Subdivision Certificate Release.

ROADS AND MARITIME SERVICES REQUIREMENTS

84. The two lane bridge shall be designed and constructed in accordance with *Australia Standard AS 5100 Bridge Design*.
85. Prior to the release of the Construction Certificate, the proponent shall submit information to Council and Roads and Maritime to confirm that:
 - The design of the proposed two lane bridge is adequate to accommodate the largest class of vehicle as described by the *Austroads Vehicle Classification System*, and the maximum load that the bridge will need to carry.
 - The minimum clear zone requirements provided in the *Austroads Guide to Road Design* and *Roads and Maritime Supplements*, for both the Great Western Highway and Girraween Drive will be achieved. This requires all non-frangible structures including utility poles to be located and relocated if necessary outside of the clear zones.
86. Prior to opening of the two lane bridge to traffic, the intersection of Girraween Drive and the Great Western Highway shall be upgraded in accordance with *Austroads Guide to Road Design* and any relevant Roads and Maritime Supplement to accommodate the largest class of vehicle that will access the bridge from the Great Western Highway, and without crossing the centreline of Girraween Drive. The largest class of vehicle turning left out of Girraween Drive must be able to do without crossing the centre line of Girraween Drive and the broken line between the slow and high speed westbound lanes of the Great Western Highway.
87. As roads works are required on a State road, the developer will be required to enter into a Works Authorisation Deed (WAD) with Roads and maritime prior to the commencement of road works at the intersection of Girraween Drive and Great Western Highway.
88. Prior to the commencement of construction works, the proponent shall contact Roads and Maritime's traffic Operations Coordinator to determine if a Road Occupancy Licence (ROL) is required. In the event that an ROL is required, the proponent shall obtain the ROL prior to works commencing within three (3) meters of the travel lanes in the Great Western Highway.

RURAL FIRE SERVICE REQUIREMENTS

Asset Protection Zones

89. At the issue of subdivision certificate and in perpetuity the entire property, excluding land greater than 18 degrees (**per proposed subdivision plan by Voerman & Ratsep, CAD file 21130C06, rev. 6, dated 24.02.23**), shall be managed as an inner protection area (IPA) as outlined within Appendices 2 & 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

-AMENDED AS PER MODDA052/22

90. A temporary 20 metre wide easement shall be provided adjoining the southern boundary of proposed Lot 14. The easement shall be managed as an APZ and can be removed when the adjoining lot is re-developed.

Water and Utilities

91. Water, electricity and gas supplies shall comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

Access

92. The public road access shall comply with section 4.1.3 (1) of 'Planning for Bush Fire Protection 2006', except that a through road is not required at this stage.
93. Dead end roads shall incorporate a 12 metre outer radius turning circle and be clearly signposted as a dead end.
94. Battle axe handles shall be a minimum 6 metres wide to enable property access roads to comply with section 4.1.3 (2) of 'Planning for Bush Fire Protection 2006'.

JOHN HOLLAND RAIL REQUIREMENTS

95. ~~The Applicant providing the final design, works methodology and safety documentation (to include the SWMS, competency certificates and protection officer details) for approval by John Holland Rail Country Regional Network and Transport for NSW.~~

Prior to the commencement of construction works for the bridge over the Main Western Railway, the applicant/owner must comply with the terms and conditions of the John Holland Rail Approval In Principle (approval reference 000555) dated 14 August 2020 and the pre-construction and construction provisions of any subsequent licence agreement issued by John Holland Rail relating to the bridge construction.

AMENDED AS PER MOD 002/21

96. ~~Design and installation works complying to relevant CRN and Australian standards.~~

DELETED AS PER MOD 002/21

97. As-built data is to be provided to John Holland Rail Country Regional Network on completion of the works.

~~98. The Applicant to appropriately dispose of any soil removed during the boring process to a licensed facility (the soil is to be treated as 'industrial level' contaminated).~~

DELETED AS PER MOD 002/21

~~99. Evidence of the Applicant and Council's public liability insurance (\$250 million) and professional indemnity insurance (\$20 million) with both John Holland Rail Pty Ltd and Transport for NSW named on the respective policies (as jointly insured). The Applicant's insurances to cover construction and defect liability periods and Council's insurances to cover the asset after the cessation of the defect liability period (as the end owner of the asset).~~

DELETED AS PER MOD 002/21

100. Council to enter into an Infrastructure Licence for ongoing ownership and maintenance of the asset.

101. The Road-Rail Interface Agreement with Council to be amended upon completion of construction.

~~102. Applicant to provide a Bank Guarantee to the value of the works.~~

DELETED AS PER MOD 002/21

~~103. The existing bridge is assessed for any possible heritage impacts.~~

DELETED AS PER MOD 002/21

~~104. The new bridge should provide similar or improved load carrying capacity than the current.~~

DELETED AS PER MOD 002/21

~~105. The works shall not adversely impact maintenance accessibility.~~

DELETED AS PER MOD 002/21

~~106. An Environmental Impact Assessment (including community) to be undertaken before construction approval is granted.~~

DELETED AS PER MOD 002/21

~~107. The design documentations (i.e. design drawings and reports) at its advance stages (i.e. 30%, 80%, 100% and for construction approval) shall be submitted for John Holland Rail Country Regional Network review and the applicant shall address whatever comments/queries.~~

DELETED AS PER MOD 002/21

~~108. No works are to commence in the corridor until John Holland Rail Country Regional Network has received and accepted information detailed at 95 to 107 and an additional~~

~~agreement has been executed. John Holland Rail Country Regional Network note that the Applicant is also required to pay additional fees to John Holland Rail Country Regional Network for the assessment and processing of the Construction Application.~~

DELETED AS PER MOD 002/21

TRANSPORT FOR NSW (RAIL) REQUIREMENTS

108.a) Landowner's Consent

The proponent will require agreement from Transport Asset Holding Entity for the under bore works relating to sewer, swale drainage pits, drainage basin and OSD tanks.

-ADDITIONAL AS PER MODDA052/22

108b) Excavation Adjacent to the Rail Corridor

Any excavation works located within 25m of rail land requires approval from Transport for NSW.

-ADDITIONAL AS PER MODDA052/22

SYDNEY CATCHMENT AUTHORITY REQUIREMENTS

General

109. ~~The lot layout of the subdivision shall be as shown on the Proposed General Arrangement Layout Plan prepared by LandTeam Australia Pty Ltd (Dwg No. 206152-DA01, Rev. B; dated 18 July 2014). No revised lot layout or staging of the subdivision that will impact on water quality shall be permitted without the agreement of the Sydney Catchment Authority.~~

The lot layout of the subdivision shall be as shown on the Plan of Subdivision (CAD File No. 21130C05, Sheet No. 1/1, Revision 5, dated 22.02.2022) prepared by Voerman & Ratsep Land Surveyors. No revised site layout, staging or external works that will have any impact on water quality, shall be permitted without the agreement of Water NSW.

-AMENDED AS PER MODDA052/22

Wastewater Management

110. There shall be no on-site wastewater management system on any of the proposed lots and all lots shall be connected to Council's sewerage system.

Sewage Pump Station and Sewer Main

111. ~~The sewer main serving the subdivision shall be designed and installed to ensure it has sufficient hydraulic capacity to accommodate wastewater load generated by the subdivision.~~

No Subdivision Certificate shall be issued unless the appointed Principal Certifier has received written certification from Lithgow City Council's Water & Sewer Services that the existing Lithgow Sewage Treatment Plant (STP) has sufficient hydraulic capacity to accommodate and treat the additional wastewater load generated by the development.

-AMENDED AS PER MODDA052/22

112. Detailed design of the subdivision shall address the risks of overflows from the proposed sewer main servicing the subdivision in the event of pump failure or blockage downstream. Mitigation strategies shall be put in place to minimise any overflows or discharges to stormwater treatment devices on the site including to the proposed on-site detention basin.

All new sewerage infrastructure including the sewer main serving the subdivision shall be designed, located, and installed:

- to ensure it has sufficient hydraulic capacity to accommodate wastewater load generated by the subdivision, and
- in accordance with Council's requirements and be to the satisfaction of Council.

-AMENDED AS PER MODDA052/22

Subdivision Roads and Access Ways

113. The subdivision roads and access ways shall be located and constructed as shown on the Proposed General Arrangement Layout Plan prepared by LandTeam Australia Pty Ltd (Dwg No. 206152 DA01, Rev. B; dated 18 July 2014), but with the following specifications and requirements: **Roadworks Mater Drawing, Typical Road Cross Sections, Roadworks Long Sections, Road Long Section Plans (Project No. 2020/300, Drawing Nos. 2020/300/M1, 2020/300/D1, 2020/300/LS1-LS11, printed on 4 November 2022) prepared by Williams Consulting Engineers Australia Pty Ltd. Subdivision roads and access ways shall:**

- be sealed and otherwise constructed in accordance with Council's engineering standards,
- incorporate a two-way crossfall, as appropriate, with runoff to be collected via a series of pits and pipes and directed to various water quality treatment measures detailed in the following conditions, and
- incorporate inlet filters (Enviropod 200 or Sydney Catchment Authority **OceanGuard or Water NSW** approved equivalent) on all inlet pits.

-AMENDED AS PER MODDA052/22

114. All stormwater structures and drainage works associated with the proposed subdivision roads shall be wholly included in the road or drainage reserve or within suitably defined easements.

Stormwater Management

115. All stormwater management measures as specified in the MUSIC Model Assessment Report (dated 18 July 2014) and Concept Drainage Plan (Dwg. No. 206152 DA24, Rev A; dated 6 June 2014.) all prepared by LandTeam Australia Pty Ltd, shall be implemented, in particular as elaborated or varied in the following conditions.

All stormwater management measures as shown on the Drainage Pipelines, Drainage Pipes and Pits, and Drainage Basin (Project No. 2020/300; Drawing Nos.:2020/300/SD1 and 2, printed on 4 November 2022, and Drawing No: 2020/300/DB1a, Issue A, dated 16/5/2023) prepared by Williams Consulting Engineers Australia Pty Ltd, shall be incorporated in the final stormwater drainage plan. The final stormwater drainage shall:

- be prepared in consultation with Water NSW prior to the issuance of a Subdivision Works Certificate and approved by the Principal Certifier,
- have stormwater management measures including:
 - o pits, pipes, and inlet filters,
 - o gross pollutant trap (OceanSave or Water NSW approved equivalent),
 - o grassed swales with appropriately spaced check dams along subdivision boundary and cross drains for the roads along northern/southern boundaries,
 - o on-site detention (OSD) basin,
 - o Filterra with 480 square metres filter area,
- have grassed swales along the boundary to separate stormwater from external catchment from the stormwater generated from the subdivision,
- include discharge outlets for Filterra and OSD basin and grassed swales along the subdivision boundary,
- have inter-allotment drainage, consisting of pits and pipes, to collect stormwater generated from lots and future dwellings,
- be finalised after all comments made by WaterNSW during the consultation process have been appropriately resolved and incorporated in the final stormwater drainage plan, and
- be implemented.

-AMENDED AS PER MODDA052/22

116. ~~Detailed Stormwater Management Plans for the subdivision shall be submitted to the Sydney Catchment Authority for review and comments prior to the issuance of the Construction Certificate.~~

-DELETED AS PER MODDA052/22

117. ~~All stormwater quality management measures shall be inspected and certified by a consultant approved by the Sydney Catchment Authority, as having been constructed or undertaken as specified in these conditions.~~

A suitably qualified stormwater consultant or engineer shall certify in writing to Water NSW and the Principal Certifier prior to the issuance of a Subdivision Certificate that all stormwater management structures have been installed as per these conditions of consent and are in a functional state.

-AMENDED AS PER MODDA052/22

118. ~~An Operational Environmental Management Plan (OEMP) shall be prepared in consultation with the Sydney Catchment Authority by a person with knowledge and experience in the preparation of such plans. The OEMP shall be prepared prior to the issuance of a Subdivision Certificate of the subdivision. The OEMP shall include but not be limited to:~~

- be prepared in consultation with the Water NSW prior to the issuance of a Subdivision Certificate,
- be provided to Council before handing over the assets,

- details on the location and nature of stormwater management structures such as pits, pipes, inlet filters, gross pollutant traps, swales, on-site detention basin, and any other stormwater structures and drainage works,
- an identification of outline the responsibilities and detailed requirements for the inspection, monitoring and maintenance of all stormwater management structures, including the frequency of such activities, **before and after handing over stormwater structures to Council,**
- the identification of the individuals or positions responsible for inspection and maintenance activities including a reporting protocol and hierarchy, before and after handing over stormwater structures to Council, and
- checklists for recording inspections and maintenance activities, **particularly for Filterra.**

-AMENDED AS PER MODDA052/22

119. No variation to stormwater treatment or management that will impact on water quality shall be permitted without agreement of the ~~Sydney Catchment Authority~~ **Water NSW**.

-AMENDED AS PER MODDA052/22

Future Dwellings

120. There shall be a public positive covenant under Section 88E of the *Conveyancing Act 1919*, the prescribed authority being the ~~Sydney Catchment Authority~~ **Water NSW**, placed over all proposed lots requiring that any future dwelling have a rainwater collection and reuse system that includes the following specifications and requirements:
- rainwater tanks with a minimum total capacity of 10,000 litres above any volume required for mains top-up,
 - roofs and gutters designed so as to maximise the capture of rainwater in the tanks,
 - the tanks plumbed to toilets, laundry and other areas for non-potable use including use for gardens, and
 - rainwater tank overflow directed to a raingarden located on the lot.

-AMENDED AS PER MODDA052/22

121. There shall be a ~~public positive covenant under Section 88E of the *Conveyancing Act 1919*, the prescribed authority being the Sydney Catchment Authority~~, placed over all proposed lots requiring that future dwellings have a raingarden that incorporates the following specifications and requirements:
- ~~be located so as to capture all runoff from the lot including any rainwater tank overflow~~
 - ~~be designed consistent with Chapter 6 of WSUD Engineering Procedures: Stormwater (Melbourne Water 2005) and Adoption Guidelines for Stormwater Biofiltration Systems (FAWB 2009)~~
 - ~~have a minimum surface and filter area of 9 square metres~~
 - ~~have an extended detention depth of 300 mm~~
 - ~~have a filter depth (excluding transition layers) of 600 mm above the underdrain~~
 - ~~have a filter media consisting of a clean sandy loam with a certified median particle diameter of 0.5 mm, a maximum orthophosphate concentration of 40 mg/kg and a maximum total nitrogen concentration of 400 mg/kg~~

- be planted with appropriate deep-rooted, moisture-tolerant vegetation protected by rock mulch (grass and turf is not appropriate vegetation, and organic mulch is not suitable)
- direct discharge and overflow to the inter-allotment drainage system
- be protected from vehicular or other damage by fences, posts, slotted kerbs or similar permanent structures
- be protected by sediment and erosion control measures during any construction and post-construction phase until the ground surface is revegetated or stabilised, and
- no development take place within one metre of the raingarden once constructed.

-DELETED AS PER MODDA052/22

122. ~~An owner's Operational Environmental Management Plan, detailing the location and nature of the each lot's stormwater collection, reuse and treatment system, including gutters, rainwater tanks and raingarden shall be developed in consultation with the Sydney Catchment Authority and provided to each future owner of the lot.~~

-DELETED AS PER MODDA052/22

Other

123. ~~Conditions 111 to 119 and 122~~ **110 to 115 and 117 to 118** above shall be carried out prior to the issuance of the Subdivision Certificate.

-AMENDED AS PER MODDA052/22

Construction Activities

124. ~~The Soil and Water Management Plans prepared by LandTeam Australia Pty Ltd (Dwg. No. 206152 DA22 and DA23, Rev A; dated 6 June 2014.) shall be updated by a person with knowledge and experience in the preparation of such plans for all works proposed or required including for the filling of the existing dam and works in the natural drainage lines. The Plans shall meet the requirements outlined in Chapter 2 of NSW Landcom's Soils and Construction: Managing Urban Stormwater (2004) manual - the "Blue Book" and shall be developed in consultation with the Sydney Catchment Authority **prior** to the issuance of a construction certificate.~~

The Soil and Water Management Plans shall be updated by a person with knowledge and experience in the preparation of such plans for all works proposed or required Page 5 of 5 Water NSW Ref: 13258-a2 including for the dewatering/filling of the existing dam and works in the natural drainage lines. The Plans shall:

- **be based on the Sediment Controls and Soil and Water Management Plans (Project No. 2020/300; Drawing Nos.:2020/300/SC1-2, dated 4/11/2022, and Drawing Nos: SC3 to SC10, printed 26 September 2022) prepared by Williams Consulting Engineers Australia Pty Ltd,**
- **be updated in consultation with the Water NSW prior to the issuance of a Subdivision Works Certificate and approved by the Principal Certifier,**
- **meet the requirements outlined in Chapter 2 of NSW Landcom's Soils and Construction: Managing Urban Stormwater (2004),**
- **include controls that prevent sediment or polluted water leaving the site or entering any stormwater drain or natural drainage system, and**

- specify how suitable groundcover will be achieved within required timeframes.

-AMENDED AS PER MODDA052/22

125. ~~Effective erosion and sediment controls shall be installed prior to any construction activity including site access, and shall prevent sediment or polluted water leaving the site or entering any stormwater drain or natural drainage system. The controls shall be regularly maintained and retained until works have been completed and ground surface stabilised or groundcover re-established.~~

The Soil and Water Management Plan shall be implemented, and no works shall commence until effective erosion and sediment controls have been installed. The controls shall be regularly inspected, maintained, and retained until works have been completed and ground surface stabilised or groundcover re-established.

-AMENDED AS PER MODDA052/22

ENDEAVOUR ENERGY REQUIREMENTS

- 125.a) **The development must comply with the standard conditions outlined within Endeavour Energy's letter submitted through the NSW Planning Portal dated 30 January 2023.**

-ADDITIONAL AS PER MODDA052/22

ADVISORY NOTES

Construction Certificate

- AN1. Prior to any civil works being undertaken for the subdivision a Construction Certificate will be required.

Section 68 Approvals

- AN2. The applicant must obtain written Section 68 approval from Council; this will be required prior to any construction works. The Section 68 application requires the submission of all detailed engineering drawings/design, specifications and any applicably supporting information for the proposed works.

Threatened Species

- AN3. No Threatened Species or Endangered Ecological Community listed under the Threatened Species Conservation Act 1995, the Environment Protection and Biodiversity Conservation Act 1999 or the associated Regulations are to be cleared as result of this Approval. This includes for fencing or accessways.

Subsequent Development Applications

- AN4. Any subsequent applications for dwellings and/or other developments on the proposed lots will be subject to the provisions of State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011 (**Biodiversity and Conservation**) 2021 (the SEPP) and will need to be assessed according to the Neutral or Beneficial Effect (NorBE) test in relation to the potential effect of the development on water quality.

-AMENDED AS PER MODDA052/22



NSW RURAL FIRE SERVICE

BUSH FIRE SAFETY AUTHORITY

Subdivision – Torrens Title Subdivision
Great Western Highway Bowenfels 2790, 9//DP253969
RFS Reference: DA-2014-00193-S4.55-1
Your Reference: MODDA052/22 (CNR-50389)

This Bush Fire Safety Authority is issued on behalf of the Commissioner of the NSW Rural Fire Service under s100b of the Rural Fires Act (1997) subject to the attached General Terms of Approval.

This authority supersedes the previous Bush Fire Safety Authority (none) issued on and confirms that, subject to the attached reissued General Terms of Approval being met, the proposed development will meet the NSW Rural Fire Service requirements for Bush Fire Safety under s100b of the Rural Fires Act 1997.

Nika Fomin

Manager Planning & Environment Services
Built & Natural Environment

Tuesday 27 June 2023