

## SECTION 4.15 EVALUATION

Environmental Planning and Assessment Act 1979 (as amended)

<b>Development Application No.</b>	DA226/22 (PAN-288584)
<b>Subject Site</b>	Lot 1 DP1253903, 19 Barton Avenue, Wallerawang NSW 2845 (Property Number: 106991)
<b>Proposal</b>	Subdivision 1 lot into 54 residential allotments, 4 new roads, 2 lots for drainage and public reserve
<b>Zoning</b>	R5 – Large Lot Residential – Lithgow Local Environmental Plan (LEP 2014)
<b>Permissibility</b>	Subdivisions are considered permissible under Lithgow Local Environmental Plan 2014, subject to development consent as per Clause 2.6 and Clause 4.1.
<b>Key SEPP/LEP</b>	<ul style="list-style-type: none"> <li>• <i>State Environmental Planning Policy (Planning Systems) 2021,</i></li> <li>• <i>State Environmental Planning 4.46</i></li> <li>• <i>Policy (Biodiversity &amp; Conservation) 2021,</i></li> <li>• <i>State Environmental Planning Policy (Resilience &amp; Hazards) 2021,</i></li> <li>• <i>State Environmental Planning Policy (Transport and Infrastructure) 2021,</i></li> <li>• <i>Lithgow Local Environmental Plan 2014.</i></li> </ul>
<b>Application Type</b>	Integrated Development – NSW Rural Fire Service
<b>Cost of Development</b>	\$6,766,809.00
<b>Applicant</b>	Mrs Erika Dawson – Integrated Consulting Pty Ltd
<b>Owner</b>	Timberfix Pty Ltd was the owner at the time of submission of the application Barton Realty Pty Ltd is the current owner
<b>Notification</b>	14 December 2022 to 18 January 2023 14 May 2025 to 13 June 2025
<b>Submissions</b>	Ten (10) submissions were received during the first public exhibition period One (1) submission was received during the second public exhibition period
<b>Variations</b>	Lithgow Development Control Plan 2021: Clause 2.3 Slope Response, Earthworks & Retaining Walls Clause 5.3.1 Lot Size & Arrangements - General Clause 5.4.3 Public Open Space & Facilities
<b>Site Inspection</b>	12 September 2024
<b>Responsible Officer</b>	Lauren Stevens- Development Assessment Planner Sandra Politi- Development Manager Shaun Elwood- Director People and Place
<b>Recommendation</b>	Approval subject to attached conditions

### **Executive Summary**

Objective of Report: To assess and recommend determination of DA226/22 with recommendation for approval subject to conditions.

On 6 December 2022, Development Application DA226/22 was lodged with Council seeking consent for a torrens title subdivision of 1 lot into 54 residential allotments, 4 new roads, 2 lots for drainage and public reserve, on land known as Lot 1 DP1253903, 19 Barton Avenue, Wallerawang.

Pursuant to the Lithgow Community Participation Plan, the Application was notified and publicly exhibited for a period of 14 days, commencing 14 December 2022 and concluding 18 January 2023 (excluding 20 December 2022 to 10 January 2023). Extension of time was granted to some objectors upon request.

Additionally, the application was placed on public exhibition from 14 May 2025 to 13 June 2025. This further exhibition period was to exhibit the letter of offer for the Voluntary Planning Agreement and the biodiversity report identifying native vegetation located on the property.

During the initial notification period, ten (10) submissions were received. One (1) further submission was received during the second notification period. These submissions are detailed later in this report.

During assessment of the application a number of Request for Further Information (**RFI**) letters were issued to the Applicant by Council's Development Assessment Department. These requests have been either satisfactorily resolved by the Applicant or addressed in the recommended conditions of consent.

The following formal RFI's were undertaken (formal letters, informal emails and meetings):

<b>Date</b>	<b>Concerns/Issues</b>
17 March 2023	<ul style="list-style-type: none"> <li>• Summary of Submissions,</li> <li>• Copy of the Capital Investment Value (CIV),</li> <li>• Preliminary Site Investigation Report for Contamination.</li> </ul>
2 June 2023	<ul style="list-style-type: none"> <li>• Cost of Development Works,</li> <li>• Contamination,</li> <li>• Land Suitability (slope more than 20%, building envelopes, Survey Plan, Geotechnical Report, hydrology, drainage, cross section plan for batters),</li> <li>• Lot 14 Access- located within an easement, adequacy of the arrangement and amenity impacts,</li> <li>• Landscape Plan including street tree planting- vegetation and species in accordance with Endeavour Energy and Transgrid under easements,</li> <li>• Bioretention Basins- to alleviate Council's maintenance load the 4 proposed basins be integrated into 1,</li> <li>• Inter-allotment Drainage-a new easement to be located from the existing allotments along Lyon Parade with amended stormwater calculations,</li> <li>• Subdivision Plans- dimensions for proposed access handles, management of unusable land on Lot 25,</li> <li>• Voluntary Planning Agreement,</li> <li>• Public Submissions.</li> </ul>
12 September 2023	<ul style="list-style-type: none"> <li>• Cost of Development Works,</li> <li>• Contamination,</li> <li>• Land Suitability (slope more than 20%, building envelopes, Survey Plan, Geotechnical Report, hydrology, drainage, cross section plan for batters),</li> <li>• Lot 14 Access- located within an easement, adequacy of the arrangement and amenity impacts,</li> <li>• Landscape Plan including street tree planting- vegetation and species in accordance with Endeavour Energy and Transgrid under easements,</li> <li>• Bioretention Basins- to alleviate Council's maintenance load the 4 proposed basins be integrated into 1,</li> <li>• Inter-allotment Drainage-a new easement to be located from the existing allotments along Lyon Parade with amended stormwater calculations,</li> <li>• Subdivision Plans- dimensions for proposed access handles, management of unusable land on Lot 25,</li> <li>• Voluntary Planning Agreement.</li> </ul>
10 November 2023	<ul style="list-style-type: none"> <li>• Land Suitability (Geotechnical Report – building envelopes),</li> <li>• Lot 14 Access- located within an easement, setbacks, visual and streetscape impacts,</li> <li>• Landscape Plan including street tree planting- vegetation and species in accordance with Endeavour Energy and Transgrid under easements, Vegetation Management Plan should Council forgo the land.</li> <li>• Bioretention Basins- to alleviate Council's maintenance load the 4 proposed basins be reduced,</li> <li>• Inter-allotment Drainage-a new easement to be located from the existing allotments along Lyon Parade with amended stormwater calculations,</li> <li>• Voluntary Planning Agreement.</li> </ul>
9 February 2024	<ul style="list-style-type: none"> <li>• Inter-allotment Drainage (type of construction details).</li> </ul>
22 July 2024	<ul style="list-style-type: none"> <li>• WaterNSW Requested additional information relating to stormwater and drainage.</li> </ul>
5 December 2024	<ul style="list-style-type: none"> <li>• Engineering requirements</li> </ul>

## **Description of Site and Surrounds**

The subject site is formally known as Lot 1 in DP1253903, 19 Barton Avenue, Wallerawang. The site is an irregular shaped allotment with a site area of approximately 17.43ha. The property has a frontage to Barton Avenue with a small section adjoining Lyon Parade and Cannelite Street.

The property adjoins the Wallerawang Public School to the south, residential land to the west (Lyon Parade) and north and Lake Wallace Recreation Area to the east. It is currently vacant of building structures, with a downhill slope from Lyon Parade to Barton Avenue (west to east). It contains grassland vegetation with some remnant isolated trees.

The site is not identified as flood-affected under the Lithgow Council's Flood Prone Maps but is identified as bush fire prone land. The site contains no heritage items and is not in a heritage conservation area.

The site is burdened by a number of electrical and Transgrid easements.



Location of the  
proposed development

Figure 1: Aerial View of the property



Figure 2: The property proposed to be subdivided, photo from Barton Avenue 12/09/2024



Figure 3: The property proposed to be subdivided, photo from Barton Avenue 12/09/2024



Figure 4: The property proposed to be subdivided, photo from Barton Avenue to the South 12/09/2024



Figure 5: The property proposed to be subdivided, photo from Barton Avenue to the North 12/09/2024



Figure 6: The property proposed to be subdivided, photo from Lyon Parade to the South 12/09/2024



Figure 7: The property proposed to be subdivided, photo from Lyon Parade to the North/West 12/09/2024

## **Proposed Development**

Council is in receipt of Development Application No. DA226/22 seeking consent for a torrens title subdivision of 1 lot into 54 residential allotments, 4 new roads, 2 lots for drainage and public reserve, on land known as Lot 1 DP1253903, 19 Barton Avenue, Wallerawang. The development includes bulk earthworks and associated civil works for new roads, stormwater drainage/bioretention basins, and essential services.

The proposed subdivision allotment sizes are detailed below:

<b>Proposed Lot</b>	<b>Allotment Size</b>		<b>Proposed Lot</b>	<b>Allotment Size</b>		<b>Proposed Lot</b>	<b>Allotment Size</b>
Lot 1	1686m <sup>2</sup>		Lot 21	1004m <sup>2</sup>		Lot 41	1090m <sup>2</sup>
Lot 2	1546m <sup>2</sup>		Lot 22	1001m <sup>2</sup>		Lot 42	1525m <sup>2</sup>
Lot 3	3571m <sup>2</sup>		Lot 23	1065m <sup>2</sup>		Lot 43	1899m <sup>2</sup>
Lot 4	2665m <sup>2</sup>		Lot 24	1029m <sup>2</sup>		Lot 44	1515m <sup>2</sup>
Lot 5	1942m <sup>2</sup>		Lot 25	1.78ha		Lot 45	1378m <sup>2</sup>
Lot 6	1595m <sup>2</sup>		Lot 26	1050m <sup>2</sup>		Lot 46	1335m <sup>2</sup>
Lot 7	1463m <sup>2</sup>		Lot 27	1018m <sup>2</sup>		Lot 47	1314m <sup>2</sup>
Lot 8	1571m <sup>2</sup>		Lot 28	1051m <sup>2</sup>		Lot 48	1296m <sup>2</sup>
Lot 9	1722m <sup>2</sup>		Lot 29	1205m <sup>2</sup>		Lot 49	1367m <sup>2</sup>
Lot 10	1758m <sup>2</sup>		Lot 30	1156m <sup>2</sup>		Lot 50	1641m <sup>2</sup>
Lot 11	2091m <sup>2</sup>		Lot 31	1178m <sup>2</sup>		Lot 51	2249m <sup>2</sup>
Lot 12	2593m <sup>2</sup>		Lot 32	1259m <sup>2</sup>		Lot 52	2489m <sup>2</sup>
Lot 13	5379m <sup>2</sup>		Lot 33	1306m <sup>2</sup>		Lot 53	2783m <sup>2</sup>
Lot 14	8619m <sup>2</sup>		Lot 34	1243m <sup>2</sup>		Lot 54	1802m <sup>2</sup>
Lot 15	1.92ha		Lot 35	1270m <sup>2</sup>		Lot 56	Proposed Public Reserve (power easements) and drainage reserve
Lot 16	4079m <sup>2</sup>		Lot 36	1185m <sup>2</sup>			
Lot 17	1210m <sup>2</sup>		Lot 37	1135m <sup>2</sup>			
Lot 18	1083m <sup>2</sup>		Lot 38	1205m <sup>2</sup>			
Lot 19	1001m <sup>2</sup>		Lot 39	1090m <sup>2</sup>			
Lot 20	1004m <sup>2</sup>		Lot 40	1090m <sup>2</sup>			

The proposed subdivision layout is shown in the Figure below:

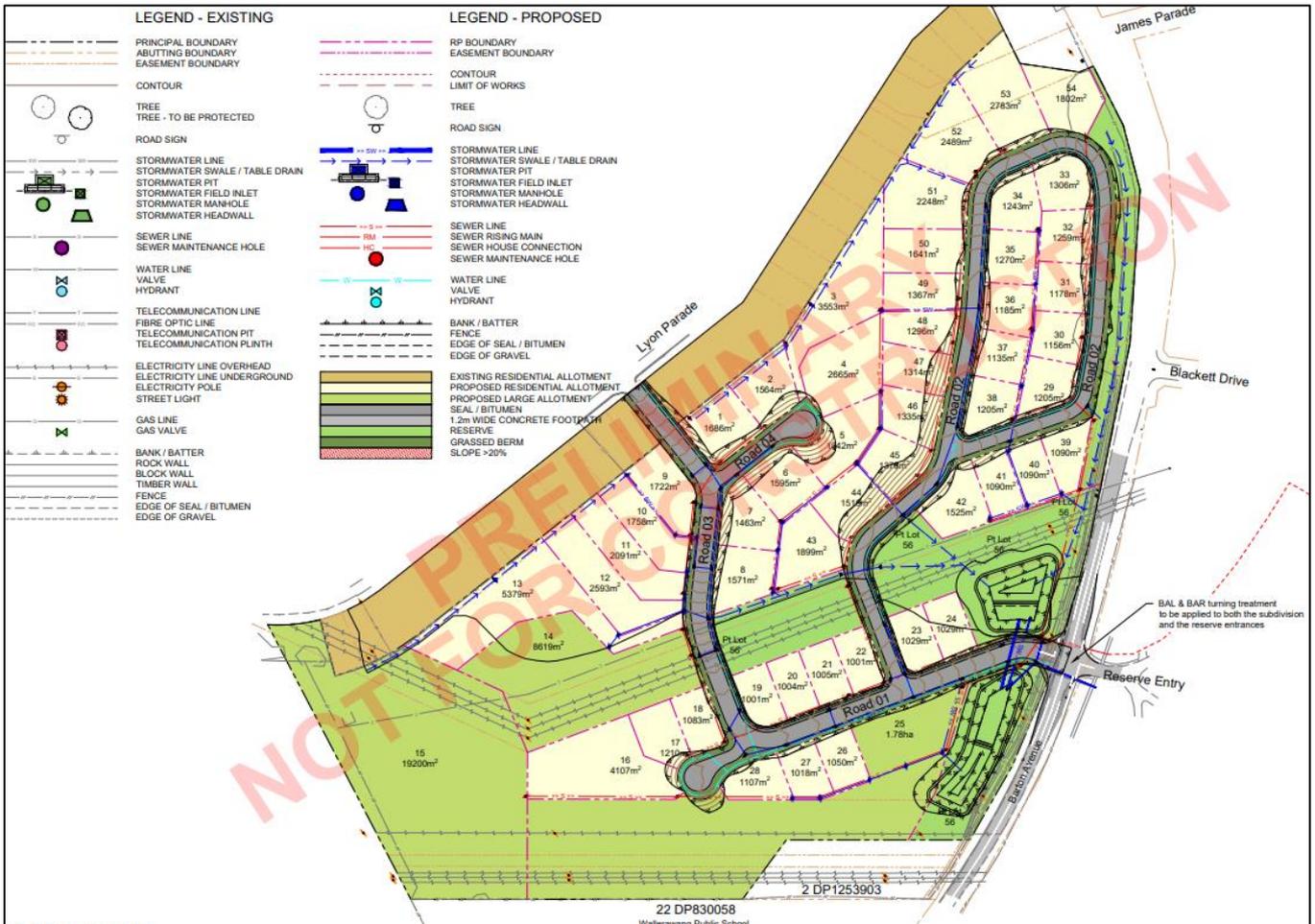


Figure 3: Proposed Subdivision Layout

All required services for the development can be provided via an extension to the existing utility infrastructure.

**Referrals**

**Internal Referrals**

Branch	Comment
Building	NA
Environmental & Health	NA
Heritage Advisor	NA
Infrastructure Services	The application was referred to Council’s Infrastructure Department for comment in relation to vehicular access and stormwater. Council’s Infrastructure Department has no objection to the application subject to conditions on the consent. (Refer to response letter received 31 January 2025).
Planning	NA
Property/Legal	NA
Water & Wastewater	The application was referred to Council’s Water and Wastewater Department for comment in relation to connection to services. Council’s Water and Wastewater Department has no objection to the application subject to conditions on the consent. (Refer to the final response received 29 November 2024).

**External Referrals**

Agency	Comment
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Endeavour Energy	The application was referred to Endeavour Energy in accordance with CI 2.48 SEPP (Transport and Infrastructure 2021). No concerns or objections were raised by Endeavour Energy. The proposed development is therefore considered satisfactory subject to compliance with their recommended conditions of consent. (Refer to response letter received 10 July 2024).
Transgrid	The application was referred to Transgrid in accordance with CI 2.48 SEPP (Transport and Infrastructure 2021). No concerns or objections were raised by Transgrid. The proposed development is therefore considered satisfactory subject to compliance with their recommended conditions of consent. (Refer to response letter received 31 July 2024).
Transport for NSW	The application was referred to Transport for NSW in accordance with CI 2.122 SEPP (Transport and Infrastructure 2021) - Traffic Generating Development. No concerns or objections were raised by Transport for NSW. The proposed development is therefore considered satisfactory subject to compliance with their recommended conditions of consent. (Refer to response letter received 6 March 2023 and 31 July 2024 and 26 July 2024).
DPE-Water	NA- No construction work is proposed to be undertaken within 40m of a water course.
Rural Fire Service	The development is defined as being Integrated Development under Section 100B of the Rural Fires Act. As such the development was referred to the NSW Rural Fire Service for comment. The NSW Rural Fire Service has no objection to the application subject to conditions on the consent. (Refer to response letter received 31 July 2024).
Subsidence Advisory	NA
WaterNSW	The application was referred to WaterNSW in accordance with Sydney Drinking Water SEPP. No concerns or objections were raised by Water NSW. The proposed development is therefore considered satisfactory subject to compliance with their recommended conditions of consent. (Refer to concurrence letter received 2 August 2024 and email dated 27 August 2024).

## **Statutory Assessment**

In determining a Development Application, a consent authority is to take into consideration the matters of relevance to the development pursuant to section 4.15 of the Environmental Planning and Assessment Act 1979 (**EP&A Act**).

## **State Environmental Planning Policies**

### ***Relevant State (NSW) Legislation***

In addition to the EP&A Act, the following State (NSW) legislation has been considered. Where relevant, further detailed assessment of the proposed development against the various Acts have been included throughout this report.

Biodiversity Conservation Act 2016	<p>The proposal has been assessed in relation to clearing of native vegetation and the Biodiversity Offset Scheme threshold under the provisions of this Act. A desktop assessment of threatened species using the BioNet Atlas identified the purple swamphen, kangaroo/wallaby, rainbow lorikeet, Australian Magpie, Australian Brush-turkey, peron's tree frog, common eastern froglet, spotted grass frog, smooth toadlet species as well as a number of significant common flora species being sighted on or in the vicinity of the development property.</p> <p>A Biodiversity Development Assessment Report was therefore submitted by the applicant. The Report identified that the site predominantly comprised Plant Community Type (PCT) 351 - Brittle Gum - Broadleaved Peppermint - Red Stringybark open forest in the north-western part (Yass to Orange) of the South Eastern Highlands Bioregion. The report further indicates that the development would impact approximately 17.22ha of native vegetation. This impact exceeds the area threshold under the Biodiversity Conservation Regulation 2017.</p>
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	The report is considered satisfactory subject to conditions of consent. This includes requiring ecosystem credits as per the BDAR report.
National Park and Wildlife Act 1974 (NP&WAct)	An AHIMS search did not identify any places of Aboriginal significance on the site or associated with the site. As such the development was no required to be referred to National Parks and Wildlife.
Roads Act 1993 (Roads Act)	The development requires road work and construction on Barton Avenue to link the new roads. Barton Avenue is defined as a regional road network, under the care and maintenance of Council. The development will also create additional-traffic generated development, therefore, the development was referred to Transport for NSW for comment. Transport for NSW has no objection to the application subject to conditions on the consent.
Contaminated Land Management Act 1997 (CLMAAct)	The land is not identified or known to be a contaminated site.  The development has considered contamination with the support of a Preliminary Contamination Investigation submitted as required by the State Environmental Planning Policy (Resilience and Hazards) 2021 and considered satisfactory.  Protection of the Environment Operations Act 1997 (POEOAct).
Crown Land Management Act 2016 (CLMAAct)	The proposal does not impact any Crown Land.
Water Management Act 2000 (WMAAct)	Water NSW has provided concurrence to the development subject to conditions of consent.
Biosecurity Act 2015 (Biosecurity Act)	Under Section 21 of the Biosecurity Act, any person who deals with any plant, who knows (or ought to know) of any biosecurity risk, must ensure the risk is prevented, eliminated or minimised as is reasonably practicable.  The Biosecurity Act and Regulations provide specific legal requirements for high-risk activities and State-level-priority weeds.  If present, priority weeds on the site would need to be assessed and controlled to fulfill the General Biosecurity Duty and minimise biosecurity risks. A Vegetation Management Plan will be required to be prepared by the applicant that includes provisions for weed removal and management. As such this will be conditioned on the consent.

#### **Part 4 Environmental Planning and Assessment Act, 1979**

##### **Matters for Consideration – General (Section 4.15)**

When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the EP&A Act. The matters that are relevant relevant to the development application include the following:

- (a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
  - (i) *any environmental planning instrument, and*
  - (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
  - (iii) *any development control plan, and*
  - (iiia) *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, and*
  - (iv) *the regulations (to the extent that they prescribe matters for this paragraph),*

- that apply to the land to which the development application relates,*
- (b) the likely impacts of that development, including environmental impacts on both the natural and built environments and social and economic impacts in the locality,*
  - (c) the suitability of the site for the development,*
  - (d) any submissions made in accordance with this Act or the regulations,*
  - (e) the public interest.*

These matters are considered below.

### **Integrated Development (Section 4.46)**

The development is identified to be integrated development with regard to Section 4.46 - Rural Fires Act 1997.

### **Planning Agreements (Section 7.4)**

It is proposed to enter into a Planning Agreement under Section 7.4 of the EP&A Act. Information regarding the applicant's offer to enter a Planning Agreement is provided later in this report.

### **Local Infrastructure Contributions (Sections 7.11 and 7.12)**

Councils may impose a condition under s. 7.11 or 7.12 of the EP&A Act for development contributions only if it is of a kind allowed by a contributions plan and is determined in accordance with the provisions of that plan (s. 7.13 EP&A Act).

Council does not have a section 7.11 contributions plan and therefore Council cannot impose a levy under section 7.11. While Council has a section 7.12 Local Infrastructure Contributions Plan 2024, the applicant has offered a monetary contribution under a Planning Agreement that exceeds the 1% levy that could be imposed under section 7.12.

The developer's offer to enter a Planning Agreement to the exclusion of a 7.12 contribution provides the best value for Council and the community, and the consent can include a condition that a planning agreement is to be entered in line with the developer's offer.

### **Environmental Planning Instruments, Proposed Instruments, Development Control Plan, Planning Agreements and Regulations**

The relevant environmental planning instruments, proposed instruments, development control plans, planning agreements and the matters for consideration under the Regulations are considered below. \*\*

#### **(a) Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments**

The following Environmental Planning Instruments are relevant to this application:

- *State Environmental Planning Policy (Biodiversity and Conservation) 2021,*
- *State Environmental Planning Policy (Planning Systems) 2021,*
- *State Environmental Planning Policy (Resilience and Hazards) 2021,*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021,*
- *Lithgow Local Environment Plan 2014 (LLEP2014),*
- *Lithgow Development Control Plan 2021 (LDCP2021).*

A summary of the key matters for consideration arising from these State Environmental Planning Policies are outlined and considered in more detail below.

<b>EPI</b>	<b>Matters for Consideration</b>	<b>Comply (Y/N)</b>
State Environmental Planning Policy (Biodiversity & Conservation) 2021	<u>Chapter 4: Koala Habitat Protection 2021</u> Section 4.8 requires that the application must be consistent with the approved koala plan of management that applies to the site.	Yes

	<p>The site is within the Central and Southern Tablelands Koala Management Area. At this stage Lithgow has no Koala Management Plan endorsed.</p> <p><u>Chapter 6: Water Catchments</u>  The development site is located within the Sydney Drinking Water Catchment (SDWC).  The development was referred to the Water NSW with a satisfactory response received.</p>	
SEPP (Resilience & Hazards)	<p><u>Chapter 4: Remediation of Land</u>  Chapter Four of the R&amp;H SEPP applies to the site under Clause 4.4 and aims to promote the remediation of contaminated land to reduce the risk of harm to human health or any other aspect of the environment.</p> <p>Clause 4.6 requires that consent must not be granted to the carrying out of any development on land unless the consent authority has considered whether the land is contaminated or requires remediation for the proposed use to be carried out.</p> <p>A search of Council’s records and aerial photos indicates the site has a history of grazing. A preliminary Site (Contamination) Assessment was prepared by Envirowest Consulting Pty Ltd, dated 16 June 2023. The submitted report noted sampling across the site and concluded to contain no detection of contaminants of concern, with particular attention provided to the potential development areas. The submitted report provides the following conclusion:</p> <p><i>Soil samples were collected across the site at 0 to 100mm soil depth. Boreholes were drilled at 500mm at sampling locations. Natural soil from boreholes drilled on the site comprised brown clayey sand over light brown silty clay on flats. Brown silty sand to yellow and red clay occurred on lower slopes and brown sandy clay to gravelly sand on crests. No fill was identified in the site inspection or boreholes drilled on site. No staining was identified around the equipment stored by neighbouring residential landholders in the western section of the site. No stockpiles are known to have been located on the site from the review of site history or site walkover. No agricultural pesticides or fertilisers are expected to have been used on site.</i></p> <p>Based on the review it is considered that the preliminary assessment of contamination risk at the site has been adequately addressed and that the report generally meets the requirements of a Preliminary Site Investigation. It is recommended that the implementation of an unexpected finds protocol during development is undertaken.’</p> <p>It is therefore unlikely, due to the site’s past use, that the site has experienced any known contamination. It is therefore considered that the site is suitable for the development of residential subdivision and further assessment is not necessary. An unexpected finds protocol standard condition will be included in the conditions of consent.</p>	Yes

State Environmental Planning Policy (Transport and Infrastructure) 2021	<p><b>Chapter 2: Infrastructure</b></p> <ul style="list-style-type: none"> <li>• Section 2.48(2) (Determination of development applications—other development) – electricity/Transgrid transmission - the proposal satisfies this section, subject to recommended conditions.</li> <li>• Section 2.122 SEPP (Transport and Infrastructure 2021)- Traffic Generating Development- the proposal satisfies this section, subject to recommended conditions.</li> </ul>	Yes
Lithgow Local Environment Plan 2014 (LLEP2014)	<ul style="list-style-type: none"> <li>• Clause 2.3 – Permissibility and zone objectives</li> <li>• Clause 4.1 – Minimum lot size</li> <li>• Clause 5.1 Reclassification of public land</li> <li>• Clause 5.3 – Development near zone boundaries</li> <li>• Clause 5.10 – Heritage conservation</li> <li>• Clause 7.1 – Earthworks</li> <li>• Clause 7.3 – Stormwater management</li> <li>• Clause 7.4 – Terrestrial biodiversity</li> <li>• Clause 7.5 – Groundwater vulnerability</li> <li>• Clause 7.7 - Sensitive lands</li> <li>• Clause 7.10 – Essential services</li> </ul> <p>The development is generally consistent with LLEP2014.</p>	Yes
Lithgow Development Control Plan 2021 (LDCP2021)	<p>Chapter 2 – Site Requirements Chapter 3 – Environment and Hazards Chapter 5 – Subdivision</p> <p>The development is generally consistent with LDCP2021.</p>	No-Variation Required

Further considerations of the relevant SEPPs are outlined in more detail below:

### **State Environmental Planning Policy (Biodiversity and Conservation) 2021**

#### Chapter 3: Koala Habitat Protection 2020

This policy aims to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline. The SEPP replaces the previous State Environmental Planning Policy No 44 - Koala Habitat Protection.

Chapter 3 applies to land of more than 1 hectare in area.

#### Part 3.2 Development Control of Koala Habitats

A Biodiversity assessment was undertaken for the property and did not identify any core koala habitats being located on the property. No eucalypt vegetation is located on or in the vicinity of the property. As such, Council is satisfied that the development would have no impact on koala habitats.

#### Chapter 6: Water Catchments

Chapter Six – Water Catchments of the B&C SEPP applies to the development pursuant to Clause 6.1, as the development is located within the Sydney Drinking Water Catchment (SDWC).

Part 6.2 of Chapter Six lists several controls that development within a regulated catchment must consider when determining to grant consent. As such, the development was referred to Water NSW. Water NSW provided that the following comments:

*'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 considers 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.

Water NSW concurs with Council granting consent to the application subject to conditions.

## **State Environmental Planning Policy (Resilience and Hazards) 2021**

### Chapter 4: Remediation of Land

The provisions of Chapter 4 of the *State Environmental Planning Policy (Resilience and Hazards) 2021* ('the Resilience and Hazards SEPP') have been considered in the assessment of the development application. Section 4.6 of Resilience and Hazards SEPP requires consent authorities to consider whether the land is contaminated, and if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out. To consider this, a Preliminary Site Investigation ('PSI') has been prepared for the site.

A summary of the review is as follows:

*Soil samples were collected across the site at 0 to 100mm soil depth. Boreholes were drilled at 500mm at sampling locations. Natural soil from boreholes drilled on the site comprised brown clayey sand over light brown silty clay on flats. Brown silty sand to yellow and red clay occurred on lower slopes and brown sandy clay to gravelly sand on crests. No fill was identified in the site inspection or boreholes drilled on site.*

*No staining was identified around the equipment stored by neighbouring residential landholders in the western section of the site. No stockpiles are known to have been located on the site from the review of site history or site walkover. No agricultural pesticides or fertilisers are expected to have been used on site.*

The report concluded that the preliminary desk study and historical investigation have not identified any potentially significant sources of contamination or evidence to show any historical changes regarding land usage. The preliminary investigation further indicated that as long as the findings of this report are implemented then the site may be considered low risk for the proposed end use as a residential development.

Based on the review, it is considered that the preliminary assessment of contamination risk at the site has been adequately addressed and that the report generally meets the requirements of a Preliminary Site Investigation. It is recommended that the implementation of an unexpected finds protocol during development is undertaken.

It is therefore considered that the site is suitable for the development being for a residential subdivision and further assessment is not necessary. An unexpected finds protocol standard condition will be included in the conditions of consent.

## **State Environmental Planning Policy (Transport and Infrastructure) 2021**

### Chapter Two: Infrastructure

Chapter Two - State Environmental Planning Policy (Transport and Infrastructure) 2021 (T&I SEPP) applies to the development pursuant to Clause 2.2 and aims to facilitate the effective delivery of infrastructure across the State.

Clause 2.48 of the T&I SEPP requires certain developments to be referred to the relevant electricity supply authority and any response is to be considered as part of the assessment.

The development involves works near high-voltage underground cables located on the property and the installation of an underground power supply for the residential subdivision. The development has been referred to Endeavour Energy and Transgrid for comment under Clause 2.48(2)(a) of the SEPP. This requires a referral for any of the following:

- Ground penetration within 2.0m of an underground electricity power line or electricity distribution pole, or within 10m of any electricity tower.
- Development within or immediately adjacent to an easement for electricity purposes.

- Immediately adjacent to an electricity substation.
- Within 5.0m of exposed overhead electricity power line.
- Installation of a swimming pool within 30m of a structure supporting overhead electricity transmission line or within 5.0m of an overhead electricity power line.
- Development involving or requiring the placement of power lines underground.

The responses received from Endeavour Energy and Transgrid under Clause 2.48(2)(b) has indicated that the development is acceptable with recommended conditions to be included in the development consent.

Clause 2.122 and Schedule 3 Traffic-generating development of the T&I SEPP requires the development to be referred to Transport for NSW should the subdivision of land contain 50 or more allotments connected with or located within 90m of a classified road.

The responses received from Transport NSW under Clause 2.122 has indicated that the development is acceptable with recommended conditions to be included in the development consent.

### **Lithgow Local Environmental Plan (LEP) 2014**

The relevant local environmental plan applying to the site is the *Lithgow Local Environmental Plan 2014* ('the LEP'). The aims of the LEP include:

<b>Clause 1.2 Aims of Plan</b>	
<b>Objective</b>	<b>Comment</b>
(aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,	Not applicable – the proposed development is a permissible land use and is considered to support the housing needs of the local community.
(a) to encourage sustainable and planned development that complements the unique character and amenity of Lithgow and enhances its towns, villages and rural areas,	Complies – the proposed development is considered to be in keeping with the existing residential locality.
(b) to provide for a range of development opportunities that contribute to the social, economic and environmental resources of Lithgow in a way that allows the needs of present and future generations to be met by implementing the principles of ecologically sustainable development,	Complies – the proposed development is considered to provide for a range of development opportunities that contribute to the social, economic and environmental resources.
(c) to manage, facilitate and encourage sustainable growth and development that—	Refer to below comments.
(i) promotes the efficient and effective delivery of utilities, infrastructure and service and minimises long-term costs to government, authorities and the community, and	Complies – the proposed development is considered to appropriately manage the necessary utilities, infrastructure and services required.
(ii) protects, enhances and conserves mineral and extractive resources lands, forests and agricultural lands and the contributions they make to the local, regional and State economy, and	Not applicable - the proposed development relates to the subdivision for future development purposes.
(iii) allows for the orderly growth of land uses while minimising conflict between land uses in a zone and land uses in adjoining zones, and	Complies – the proposed development is considered unlikely to result in land use conflict.
(iv) encourages a range of housing choices in planned urban and rural locations to meet population growth and the diverse needs of the community, and	Complies – the subdivision would allow a variety of future housing choices.
(v) preserves and protects land that has been identified for future long term urban	Not applicable – the site has not been identified for long term urban development.

development from inappropriate fragmentation and development, and	
(vi) protects and enhances environmentally sensitive areas, ecological systems, areas of high scenic, recreational, landscape or conservation value and areas that have the potential to contribute to improved environmental outcomes, and	Complies – appropriate consideration has been given to the environmentally sensitive areas located. Based on the information submitted and the matters outlined in this 4.15 Assessment Report, the development is considered to achieve compliance with this objective.
(vii) protects and enhances places and items of environmental, archaeological, cultural or heritage significance, including Aboriginal relics and places, and	Complies - appropriate consideration has been given to the environmentally sensitive areas located. Based on the information submitted and the matters outlined in this 4.15 Assessment Report, the development is considered to achieve compliance with this objective.  The subject site is not mapped as being an item of heritage significance.
(viii) avoids or minimises the impact of development on drinking and environmental water catchments to protect and enhance water availability and safety for human consumption and the maintenance of environmental and recreational values, and	Complies – The proposed allotments are surrounded by residential uses, as such the development will have no impact on water catchments.
(ix) strengthens and promotes employment land opportunities and appropriate tourism development and growth, and	Not applicable – the development relates to the subdivision of 1 lot into 54 residential allotments.
(x) creates resilience to natural hazards through local land use planning.	Complies – the development is considered to adequately respond to the environmental factors present at the site, including bushfire prone land and flood prone land.

#### Characterisation

Pursuant to the Lithgow LEP 2014, the proposed use is defined as a **subdivision**.

Zone of Land R5 Large Lot Residential

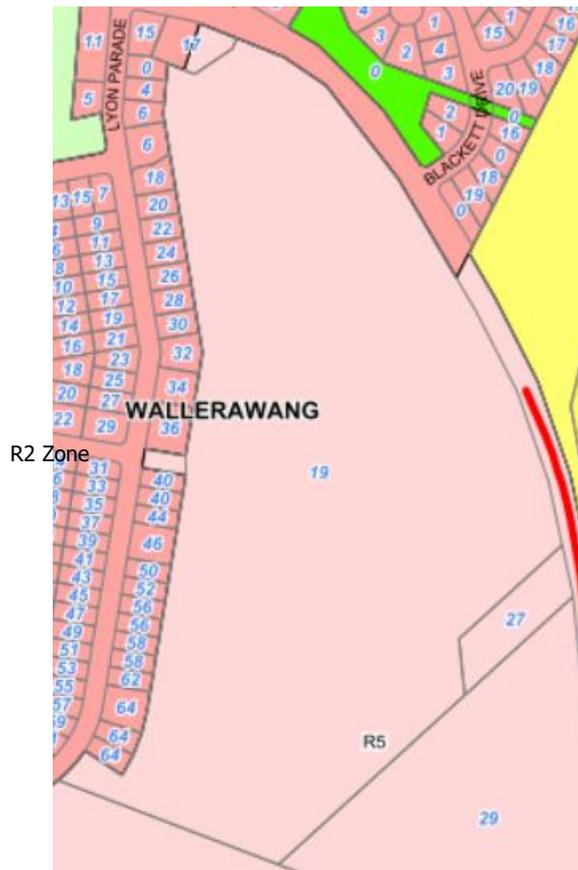


Figure 4: Zoning Map

**Permissibility** The development being a 'subdivision' is considered permissible under Lithgow Local Environmental Plan 2014, subject to development consent as per Clause 2.3 and Clause 4.1.

Clause 2.6 states:

**2.6 Subdivision—consent requirements**

- (1) Land to which this Plan applies may be subdivided, but only with development consent.
- (2) Development consent must not be granted for the subdivision of land on which a secondary dwelling is situated if the subdivision would result in the principal dwelling and the secondary dwelling being situated on separate lots, unless the resulting lots are not less than the minimum size shown on the Lot Size Map in relation to that land.

**Comment:** The development application was lodged to Council for assessment.

**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.

**Comment:** The minimum allotment size identified under Council's LEP 2014 is 800m<sup>2</sup>. As such, all of the proposed residential allotments comply with the minimum allotment size for residential land.

## Zone Objectives

Objective	Comment
<b>R5 Large Lot Residential</b>	
<ul style="list-style-type: none"> <li>To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.</li> </ul>	Complies – the development being for 54 new residential allotments will provide an additional housing developments in the future. The land is currently vacant within a surrounding residential area. As such, the development will have no impact rural settings.
<ul style="list-style-type: none"> <li>To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.</li> </ul>	Complies – the development will allow for a variety of housing types in the area and will not hinder development.
<ul style="list-style-type: none"> <li>To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.</li> </ul>	Complies – The development will involve the increase in services such as water, sewer and drainage. These services have been assessed by Council's water and sewer officer and found to be satisfactory subject to conditions on the consent. Electrical and telephone will also be extended for the development. Connection to these services will be conditioned on the consent. Other infrastructure such as roads and footpaths have been assessed by Council's Infrastructure Department and determined that the proposal to be satisfactory subject to conditions on the consent. Bus stops are located within Barton Avenue with the Wallerawang School adjoining the site. As such the development will not create any unreasonable demand on services.
<ul style="list-style-type: none"> <li>To minimise conflict between land uses within this zone and land uses within adjoining zones.</li> </ul>	Complies – The development will be compatible with the surrounding residential development and will therefore have no conflict.
<ul style="list-style-type: none"> <li>To limit development to areas in reasonable proximity to the settled town centres of Lithgow, Wallerawang and Portland to strengthen settlement hierarchy.</li> </ul>	Complies – The development is located within the Wallerawang township surrounded by residential uses. Therefore, the development will be compatible with surrounding uses.
<ul style="list-style-type: none"> <li>To maintain or improve the water quality of receiving water catchments.</li> </ul>	Complies- the development being a subdivision will have no impact on water quality. The development has also been assessed as achieving a satisfactory Norbe result as per WaterNSW requirements.

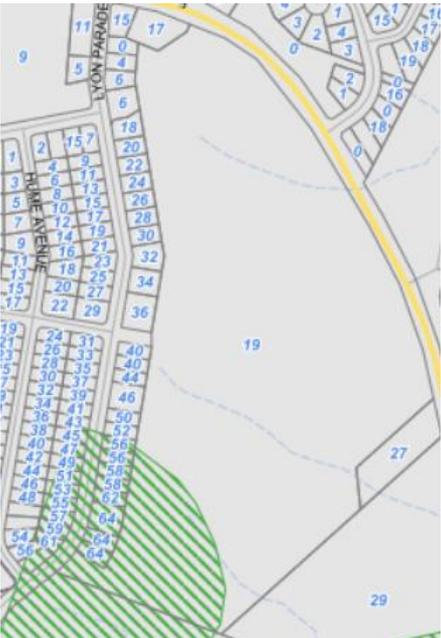
## General Controls and Development Standards (Part 2, 4, 5 and 6)

The LEP 2014 contains controls relating to development standards, miscellaneous provisions and local provisions. The controls relevant to the proposal are considered below.

LEP Clauses		
Relevant Provisions		Comment
<b>Part 2 Permitted or prohibited development</b>		
2.3	Zone objectives and Land Use Table	Complies – subdivisions are permitted with consent in the zones applicable; and the development is in keeping with the objectives of those zones.
2.4	Unzoned land	Not applicable.
2.5	Additional permitted uses for particular land	Not applicable.
2.6	Subdivision – consent required	Complies – The Development Application has been submitted.
2.7	Demolition – consent required	Not applicable.
2.8	Temporary use of land	Not applicable.

<b>LEP Clauses</b>		
<b>Relevant Provisions</b>		<b>Comment</b>
<b>Part 4 Principal development standards</b>		
4.1	Minimum subdivision lot size	Complies – The minimum allotment size identified under Council’s LEP 2014 is 800m <sup>2</sup> .  As such all residential allotments are above the minimum allotment size.
4.2	Rural subdivision	Not applicable.
4.3	Height of buildings	Not applicable.
4.4	Floor space ratio	Not applicable.
4.6	Exceptions to development standards	Not applicable.
<b>Part 5 Miscellaneous provisions</b>		
5.3	Development near zone boundaries	Not applicable.
5.4	Controls relating to miscellaneous permissible uses	Not applicable.
5.5	Controls relating to secondary dwelling on land in a rural zone	Not applicable.
5.9	Dwelling house or secondary dwelling affected by natural disaster	Not applicable.
5.10	Heritage conservation	Not applicable.
5.16	Subdivision of, or dwellings on, land in certain rural, residential or conservation zones	Not applicable.
5.21	Flood planning	Not applicable.
<b>Part 7 Additional local provisions</b>		
7.1	Earthworks	<p>The development will include earthworks for services and road construction. These earthworks will result in a change to the drainage pattern of the area.</p> <p>The road network and stormwater infrastructure proposed have been designed to allow for the diversion of stormwater to be captured within bio-retention basin systems (x2 basins) and treated before being naturally dispersed.</p> <p>Conditions of consent have been imposed to ensure dust, noise and erosion impacts are minimised during works and in perpetuity as a result of the earthworks.</p> <p>The site slopes from west to east with the lowest point being adjacent to the entrance to Lake Wallace. Three drainage depressions traverse the site with two existing dams.</p> <p>The main connection road through the site will utilise the most central of these depressions in order to best utilise the topography and natural drainage paths.</p> <p>The site contains a few areas with slopes over 20%. This threshold is deemed to provide geological and built form constraints.</p> <p>Most of the lots (that being approximately 15 allotments affected, with approximately 7 allotments containing building envelopes completely affected) affected by the <math>\geq 20\%</math> slope have been designed to be larger in size in order to provide areas for future dwellings outside of the steep land.</p>

LEP Clauses		
	Relevant Provisions	Comment
		<p>A Geotechnical Report was submitted with the application, with recommendations for earthworks within these allotments. As such, the recommendations have been conditioned on the consent. A condition has also been included for restrictions on the title to comply with future building requirements.</p> <p>The development has been assessed by appropriate authorities for potential impacts from earthworks on water courses and found to be satisfactory subject to conditions of consent, should the application be approved.</p>
7.3	Stormwater management	<p>The proposal has been designed to maximise water permeable surfaces with minimal road networks and stormwater infrastructure.</p> <p>The development will have minimal runoff to adjoining properties as it will be retained onsite and dispersed adequately into adjoining water catchments. The development has been assessed by appropriate authorities with no objection to the stormwater management proposals subject to conditions of consent being imposed, if approved.</p>
7.4	Terrestrial biodiversity	NA.
7.5	Groundwater vulnerability	<p>The site is partly mapped as being located within the groundwater vulnerability area; with mapping indicating to affect the eastern part of the site.</p> <p>The development has been considered by Water NSW, with the inclusion of MUSIC modelling. The development is considered to achieve neutral or beneficial effects on water quality.</p> <p>In addition, the site is to be sewered and no concerns have been raised by Council's Water and Waste Officer.</p> <p>The groundwater vulnerability map is shown below:</p> 

LEP Clauses		
	Relevant Provisions	Comment
7.7	Sensitive lands	<p>Assessment of the application has taken into consideration slope, erosion mitigation, drainage and water quality. In addition, a BDAR has been submitted with an assessment of potential biodiversity impacts on flora and fauna.</p> <p>Landscaping is to be included with a condition of consent including the requirement for a vegetation management plan to be submitted as part of the subdivision works certificate requirement.</p> <p>A Geotechnical Report, prepared by Macquarie Geotech, was submitted with the application. A plan was also submitted showing the potential allotments that include land with a slope over 20%, with potential building envelopes. That being approximately 15 allotments affected, with approximately 7 allotments containing building envelopes completely affected.</p> <p>The report further states:  <i>"Where the ground slopes at more than 1V:10H (6°), the ground profile should be benched in 300mm vertical steps to create near-level platforms for filling. The platforms should be graded with a cross fall no steeper than 2% downslope to allow drainage of any infiltration into the fill and to prevent pooling of subsurface moisture."</i></p> <p><i>"During our geotechnical assessment, we have taken into account all areas of the site, and during our drilling investigation we particularly focused on more steeply sloped areas. Provided our design and earthworks recommendations are adhered to, we do not specify any particular areas on site which can/cannot be built upon."</i></p> <p>As such, conditions have been included on the consent in this regard.</p> 

LEP Clauses		
	Relevant Provisions	Comment
7.10	Essential services	<p>The development will provide reticulated water, underground electricity, sewerage management/disposal, stormwater drainage (including detention basins) and suitable vehicular access through the design and via conditions of consent.</p> <p>The subject site is currently unsewered and will involve connections to nearby services. Essential sewerage provisions therefore are included as conditions of consent.</p> <p>As such, the development will have all essential services as required and complies with CI 7.10.</p>

#### Section 4.15 (1)(a)(ii) - Provisions of any Proposed Instruments

Not applicable.

#### Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan

Section 4.15(1)(a)(iii) of the EP&A Act requires Council to consider the provisions of any development control plans.

The development has been assessed having regard to the relevant desired outcomes and prescriptive requirements within the Lithgow Development Control Plan 2021 (LDCP2021).

#### Lithgow Development Control Plan (DCP) 2021

Applicable DCP Chapters			
Chapter 2 – Site Requirements	X	Chapter 3 – Environment & Hazards	X
Chapter 4 – Heritage		Chapter 5 – Subdivision	X
Chapter 6 – Residential		Chapter 7 – Commercial & Industrial	
Chapter 8 – Rural & Other Land Uses		Chapter 9 – Pottery Estate Precinct	

Chapter 2 – Site Requirements	
Development Control	Assessment Comments
<b>2.2 Site Analysis, Local Character &amp; Context</b>	
2.2.1 Site Selection	The development is permissible in the applicable 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 a) The Site topography, climate and natural environment; b) Natural hazards on or near the Site; c) Potential land use conflicts; d) Heritage items or heritage conservation areas; e) Surrounding built form and landscape/streetscape character; and f) Amenity for the Site and adjacent sites (where relevant).	<p>Consideration has been given to the site topography and natural environment, along with any potential hazards on or near the site. The development is considered to respond to the established built form and is unlikely to result in adverse impacts on adjoining residential allotments.</p> <p>The site slopes from west to east with the lowest point being adjacent to the entrance to Lake Wallace. Three drainage depressions traverse the site with two existing dams.</p> <p>The main connection road through the site will utilise the most central of these depressions in order to best utilise the topography and natural drainage paths.</p> <p>The site contains a few areas with slopes over 20%. This threshold is deemed to provide geological and built form constraints.</p>

	<p>Most of the lots affected by the <math>\geq 20\%</math> slope have been designed to be larger in size in order to provide areas for future dwellings outside of the steep land.</p>
<p>2.2.3 Local Character &amp; Context</p>	<p>The development is for a residential subdivision within the R5 Large Lot Residential zoning area under the Lithgow LEP 2014. The development proposes to create a variety of allotment sizes for future developments as well as being able to demonstrate that the proposed allotment sizes are similar to the existing surrounding residential subdivisions. As such, this is considered to be a desired outcome as prescribed in the DCP.</p> <p>The development is further consistent with the current and future character of the area.</p>
<p>2.2.4 Visually Prominent Sites</p>	<p>The development is located within a prominent location within the Wallerawang township as the subdivision is on the main road from the Highway (Barton Avenue) and located adjacent from Lake Wallace. The property has previously been utilised as vacant grazing land for many years with the expectation from Lyon Parade residences to their views will be impacted upon.</p> <p>Given the slope of the land, future developments will be constrained within certain building envelopes and design criteria's.</p> <p>As such, future dwellings would be located below key ridgelines, and will blend into the surrounding residential uses. Therefore the development complies with Clause 2.2.4.</p>
<p><b>2.3 Slope Response, Earthworks &amp; Retaining Walls</b></p>	
<p>2.3.1 Earthworks</p>	<p>A Geotechnical Report, prepared by Macquarie Geotech, was submitted with the application. A plan was also submitted showing the potential allotments that include land with a slope over 20%, with potential building envelopes. That being approximately 15 allotments affected, with approximately 7 allotments containing building envelopes completely affected.</p> <p>The report further states:</p> <p><i>"Where the ground slopes at more than 1V:10H (6°), the ground profile should be benched in 300mm vertical steps to create near-level platforms for filling. The platforms should be graded with a cross fall no steeper than 2% downslope to allow drainage of any infiltration into the fill and to prevent pooling of subsurface moisture."</i></p> <p><i>"During our geotechnical assessment, we have taken into account all areas of the site, and during our drilling investigation we particularly focused on more steeply sloped areas. Provided our design and earthworks recommendations are adhered to, we do not specify any particular areas on site which can/cannot be built upon."</i></p> <p>As such, the recommendations within the report was found to be suitable for the development and have been conditioned on the consent. A condition has also been included for restrictions on the title to comply with future building requirements.</p>

2.3.2 Retaining Walls	Not applicable – no retaining walls are proposed as part of the development.
<b>2.4 Stormwater Management</b>	
2.4 Stormwater Management	Stormwater management has been considered under Chapter 5- Subdivisions of the DCP and is found to be satisfactory.
<b>2.5 Vehicle Access &amp; Parking</b>	
2.5.1 Guidelines & Standards	Vehicle access and parking has been considered under Chapter 5- Subdivisions of the DCP and is found to be satisfactory.
2.5.2 Vehicle Access & Driveways	Complies – Refer to the above comment.
1) Access	Complies – Refer to the above comment.
2) Policy: All works comply with Council Policy – <i>Specification for the construction of driveways, footpath/gutter crossings and foot-paving (as amended).</i>	Complies – Refer to the above comment.
3) All weather access: all weather access is required to all development to ensure that emergency services are able to access them at all times.	Complies – Refer to the above comment.
4) Proximity to Intersection(s) & Sight-Lines	Complies – Refer to the above comment.
5) Direction of Travel: Vehicle access and egress to/from a lot occurs in a forward direction.	Complies – Refer to the above comment.
6) Access to street	Complies – Refer to the above comment.
7) Slope	Complies – Refer to the above comment.
8) Driveway width: a) Driveways servicing one (1) to two (2) dwellings or in rural areas are a minimum width of 3.5m b) Shared driveways servicing three (3) or more dwellings (up to eight (8) dwellings) have a minimum width of 4.5m (3.5m carriageway plus landscaping) increasing to 5.5m forward of the front building line or provide for passing bays based on the size of the development/length of driveway. d) Driveways do not dominate the street and provide the minimum width to achieve safety whilst being integrated with the landscape design for the site.	Complies – Refer to the above comment.
<b>2.6 Pedestrian Access, Mobility &amp; Safety</b>	
2.6.1 Accessibility	The development will require footpaths to be constructed around the subdivision. Suitable conditions will be included on the consent in this regard.
2.6.2 Pedestrians	Refer to above comment.
2.6.3 Street Numbering & Letterboxes	Complies – Conditioned on the consent
<b>2.7 Designing for Crime Prevention</b>	
Complies – The orientation of the allotments allow for passive open space areas and suitable surveillance.	
<b>2.8 Utilities, Easements &amp; Infrastructure</b>	
2.8.1 Connection to Utilities	Refer to comments within Chapter 5 – Subdivisions – CI5.25 – Utilities and Easements.  The residential lots will be connected to reticulated water and sewerage, and underground electricity connections. The development therefore is considered to satisfactory comply with CI 2.8 of the DCP.

<p>2.8.2 Building Near Utilities/Easements/Drainage Lines</p>	<p>The site is encumbered by numerous forms of infrastructure, both above and below ground, which are protected by various easements benefitting the requisite utility undertakings.</p> <p>The electricity undertakings need to ensure that access is maintained to their infrastructure, including development exclusion zones around the poles/stanchions to provide working room for maintenance.</p> <p>Where possible, the easement areas have been included in larger more "rural residential" style allotments.</p> <p>Majority of the easement areas have been provided within land to be dedicated to Council as drainage reserve and open space.</p> <p>Sewer mains will be installed within the front of lots that slope to the road, and at the rear of lots that slope away from the road.</p> <p>The site does not contain any watercourses, sensitive areas or any known natural hazards that would be adversely impacted by the provision of services.</p> <p>Service mains will be located in their standard footpath allocation and have no impacts on street trees.</p> <p>The provisions of services therefore are considered satisfactory for the development.</p>
<p>2.8.6 Water Supply</p>	<p>Future dwellings on the allotment would be connected to Council's services. The development was referred to Council's Water and Wastewater Officer who had no objection to the application subject to conditions on the consent.</p>
<p>2.9 Solid Waste Management</p>	<p>The development has adequate access for Council's Waste Services to access the frontage for each development lot. Therefore, the development complies with the DCP.</p>

<p><b>Chapter 3 – Natural Environment &amp; Hazards</b></p>	
<p><b>Development Control</b></p>	<p><b>Assessment Comments</b></p>
<p><b>3.2 Bushfire Prone Land</b></p>	
<p>O1. To meet the statutory requirements for bush fire protection in NSW.</p>	<p>The development site is located on land mapped as being bushfire prone on the certified Bush Fire Prone Land Map.</p> <p>As such Planning for Bushfire Protection 2019 has been applied to the development to ensure all future development can be located in an appropriate area of bushfire risk through the provision of Asset Protection Zones on site, provides for appropriate and connected access, and infrastructure is appropriately designed and located.</p> <p>Subdivision of land for a residential purpose is defined as being 'integrated development' under S4.46 of the EP&amp;A Act, therefore, the application was referred to the NSW Rural Fire Service for comment.</p> <p>The NSW Rural Fire Service and Council consideration was assessed against the submitted Bushfire Assessment.</p>

The NSW RFS considered the information submitted and provided General Terms of Approval, under Division 4.8 of the Environmental Planning and Assessment Act 1979, and under section 100B of the Rural Fires Act 1997.

Conditions have been included for consent in this regard.

The bushfire map is shown below:



**3.3 Vegetation Management & Biodiversity**

3.3.3 LLEP 2014 – Terrestrial Biodiversity NA

**3.4 Land and Soil**

3.4.1 Contaminated Land

a Preliminary Site Investigation ('PSI') has been prepared for the site.

A summary of the review is as follows:

*Soil samples were collected across the site at 0 to 100mm soil depth. Boreholes were drilled at 500mm at sampling locations. Natural soil from boreholes drilled on the site comprised brown clayey sand over light brown silty clay on flats. Brown silty sand to yellow and red clay occurred on lower slopes and brown sandy clay to gravelly sand on crests. No fill was identified in the site inspection or boreholes drilled on site.*

*No staining was identified around the equipment stored by neighbouring residential landholders in the western section of the site. No stockpiles are known to have been located on the site from the review of site history or site walkover. No agricultural pesticides or fertilisers are expected to have been used on site.*

	<p>The report concluded that the preliminary desk study and historical investigation have not identified any potentially significant sources of contamination or evidence to show any historical changes regarding land usage. The preliminary investigation further indicated that as long as the findings of this report are implemented then the site may be considered low risk for the proposed end use as a residential development.</p> <p>Based on the review, it is considered that the preliminary assessment of contamination risk at the site has been adequately addressed and that the report generally meets the requirements of a Preliminary Site Investigation. It is recommended that the implementation of an unexpected finds protocol during development is undertaken.</p> <p>It is therefore considered that the site is suitable for the development being for a residential subdivision and further assessment is not necessary. An unexpected finds protocol standard condition will be included in the conditions of consent.</p>
<p>3.4.2 Sensitive Land Areas</p>	<p>The consideration of sensitive lands has been considered under clause 7.7 of LLEP2014 (assessed earlier in this report) and considered satisfactory.</p> <p>Assessment of the application has taken into consideration slope, erosion mitigation, drainage and water quality. In addition, a BDAR has been submitted with an assessment of potential biodiversity impacts on flora and fauna.</p> <p>Landscaping is to be included with a condition of consent including the requirement for a vegetation management plan to be submitted as part of the subdivision works certificate requirement.</p> <p>A Geotechnical Report, prepared by Macquarie Geotech, was submitted with the application. A plan was also submitted showing the potential allotments that include land with a slope over 20%, with potential building envelopes. That being approximately 15 allotments affected, with approximately 7 allotments containing building envelopes completely affected.</p> <p>The report further states:  <i>"Where the ground slopes at more than 1V:10H (6°), the ground profile should be benched in 300mm vertical steps to create near-level platforms for filling. The platforms should be graded with a cross fall no steeper than 2% downslope to allow drainage of any infiltration into the fill and to prevent pooling of subsurface moisture."</i></p> <p><i>"During our geotechnical assessment, we have taken into account all areas of the site, and during our drilling investigation we particularly focused on more steeply sloped areas. Provided our design and earthworks recommendations are adhered to, we do not specify any particular areas on site which can/cannot be built upon."</i></p>

	As such, conditions have been included on the consent in this regard.
3.4.3 Erosion & Sedimentation	The development plans include sediment control measures that were considered by Council's Development Engineer as being satisfactory. Conditions are included in the consent in this regard.
<b>3.6 Ground &amp; Surface Water Protection</b>	
This clause applies to land where the following Clauses of LLEP2014 apply: a) Clause 7.5 – Groundwater vulnerability; and/or b) Clause 7.6 – Riparian land and watercourses;	<p><b>Complies</b> – The site is partly mapped as being located within the groundwater vulnerability area; with mapping indicating to affect the eastern part of the site.</p> <p>The development has been considered by Water NSW, with the inclusion of MUSIC modelling. The development is considered to achieve neutral or beneficial effects on water quality.</p> <p>In addition, the site is to be sewered and no concerns have been raised by Council's Water and Waste Officer.</p>

<b>Chapter 5 – Subdivision &amp; Roads</b> including consolidation and boundary adjustments	
<b>Development Control</b>	<b>Assessment Comments</b>
<b>5.2 Site Selection, Analysis &amp; Design Response</b>	
5.2.1 Site Analysis & Potential Land Use Conflicts	The site is located within an existing R5 zoned area. No land use conflicts expected. A site analysis was submitted with the application and found to be satisfactory for the development.
5.2.2 Water, Natural Environment & Hazards	<p>An Aboriginal Heritage Due Diligence Assessment was submitted with the application with no Aboriginal objects or areas of potential archaeological depots identified. Council concurred with the assessment subject to standard conditions applied on the consent.</p> <p>The impacts on existing vegetation on and adjacent to the site have been comprehensively considered within this report and as part of the biodiversity assessment. A BDAR and landscaping plan submitted by the applicant, supports the development with regard to site vegetation and future vegetation.</p> <p>A vegetation management plan will be required as a condition of consent.</p> <p>A Biodiversity assessment was undertaken for the development with ecosystem credits conditioned on the consent as per the BDAR Report.</p> <p>The property contains a steep topography. As such a Geotechnical Report was submitted with the application with recommendations included as conditions on the consent.</p> <p>The stormwater management detail within the submitted plans (undertaken by Calare Civil dated 23/07/2024) have been considered satisfactory by Council's Development Engineer and WaterNSW. Suitable conditions have been included in the consent to ensure that the development complies with the requirements and that there is adequate handover to become Council's assets to maintain and manage.</p>

	<p>The development has no significant hazards, with contamination to be considered satisfactory. (Refer to previous comments in this report regarding contamination and bushfire assessment).</p>
<p>5.2.3 Lot Sizes, Dimensions &amp; Suitability</p>	<p>The development is consistent with the objectives of the zone and development standards of the LLEP2014 relating to lot sizes (refer to considerations under the LLEP2014).</p> <p>The development proposes lots that will allow reasonable solar and aesthetic orientation for future developments.</p> <p>The varying lots sizes is consistent with the requirement to enhance character of the area and minimise receptiveness.</p> <p>The objective to provide opportunity for housing diversity through the creation of larger lots is considered a benefit for the area and consistent with the objectives and aims of the both the LLEP2014 and LDCP2021.</p>
<p>5.2.4 Access &amp; Entrances</p>	<p>The site has frontage to both Barton Avenue and Lyon Parade (both directly and via a short connection of Cannelite Street). The direct access to Lyon Parade (at the southern end of the site) has limited sight distances and therefore access is proposed for one allotment. Cannelite Street is proposed to be utilised as an access point for the subdivision with the main proposed access to be from Barton Avenue. This connection through the subdivision will maintain pedestrian access as well as improving vehicular permeability.</p> <p>All lots will have direct access to new public roads. These accesses are considered to provide safe manoeuvring onto each new allotment and around the site. This is considered satisfactory for the development and complies with the DCP.</p>
<p>5.2.5 Utilities/Easements</p>	<p>The site is encumbered by numerous forms of infrastructure, both above and below ground, which are protected by various easements benefitting the requisite utility undertakings.</p> <p>The electricity undertakings need to ensure that access is maintained to their infrastructure, including development exclusion zones around the poles/stanchions to provide working room for maintenance.</p> <p>Where possible, the easement areas have been included in larger more "rural residential" style allotments. Majority of the easement areas have been provided within land to be dedicated to Council as drainage reserve and open space.</p> <p>Sewer mains will be installed within the front of lots that slope to the road, and at the rear of lots that slope away from the road.</p> <p>The site does not contain any watercourses, sensitive areas or any known natural hazards that would be adversely impacted by the provision of services.</p>

	<p>Service mains will be located in their standard footpath allocation and have no impacts on street trees.</p> <p>The provisions of services therefore are considered satisfactory for the development.</p>
5.2.6 Siting and Visibility of Utilities	Complies – all utilities easements (Endeavour Energy and Transgrid) are existing in the locality/on the allotment. These services are located above ground. The development has been designed to allow building envelopes to be located outside of the easement areas. The development was further referred to the relevant easement authorities who have no objection to the application subject to conditions on the consent.
5.2.7 Staging	Not applicable.
<b>5.3 Urban Residential Subdivision</b>	
5.3.1 Lot Size & Arrangements-General	<p>The proposed allotments meet the minimum requirements under the LLEP2014.</p> <p>1) Sewerage: Complies- the development will contain connections to Council’s sewer services. The development was referred to Council’s Water and Wastewater Officer who has no objection to the application subject to conditions on the consent.</p> <p>2) Dwelling Diversity: The development is proposed to contain a variation of allotment sizes due to constraints on the land and to allow a diversity of future development types. As such corner allotments would be able to accommodate dual occupancy developments.</p> <p>3) Lot Width: Majority of the allotments comply with the minimum 10m frontage as per the DCP except Lot 3 which is proposed to contain 6.5m frontage and Lot 12 to have a frontage of 7.5m.</p> <p>The development therefore seeks a variation to the DCP. As such, Council’s assessment officer provides the following assessment:</p> <ul style="list-style-type: none"> <li>• The property is highly constrained by a number of restrictions including steep topography and easements. Access to these allotments would be minimal distance in length and would be required to be sealed as per any future dwelling application for the property.</li> <li>• The development has been designed to be compatible with the surrounding allotment sizes as well as designing allotments that would contain the best possible building envelopes.</li> <li>• The variation for the 2 allotments is minimal and would be able to accommodate driveway accesses that would comply with Council’s Engineering Guidelines.</li> </ul> <p>Give the above, Council assessment officer supports the variation to the DCP.</p> <p>4) Layout/Orientation: The site is restricted due to the topography of the land. The allotments have been arranged to promote future dwelling separations, privacy (to an extent), overshadowing and open space areas.</p>

5.3.2 Access to Lots with Limited or No Road Frontage	Complies – The development does not include a battle-axe layout.
5.4.3 Public Open Space & Facilities	<p>Non-Compliant- The DCP states:</p> <p><i>1) Where not specifically stated in an adopted relevant Open Space plan/study or Voluntary Planning Agreement, useable public open space shall be provided at a minimum rate of 70m<sup>2</sup> per lot and ideally consolidated into useable recreation area larger than 5,000m<sup>2</sup> (except where their function is primarily to provide cyclist/pedestrian connection or habitat linkages).</i></p> <p><i>2) Where it is not feasible or desirable to dedicate a land component for open space within a development, Council will seek an equivalent monetary contribution or off-site land contribution towards the provision of community usable open space areas either through a negotiated Planning Agreement or in accordance with an adopted Contributions Plan.</i></p> <p>The development provides for open space to be included within the proposed drainage reserve at the front of the subdivision and along the transmission easement. This area is not feasible or desirable given the practical usage being unusable.</p> <p>As such a Planning Agreement has been entered into for the provision of open space. Council would then own and manage this area as 'greenery/landscaping land'.</p> <p>Each new allotment is proposed to be within 600m from the Lake Wallace Recreation Park that contains active open space and a playground area.</p> <p>The Wallerawang Main Street is within reasonable distance (400 to 800m) to the subdivision.</p> <p>As such, the justification is considered reasonable or the variation of the DCP.</p>
5.7 New or Upgraded Public Roads	<p>The development has been considered by Development Engineers to satisfactory comply with Council's Engineering requirements.</p> <p>Road 1 shown on the site plan contains the main access Road from Barton Avenue to Cannelite Street/Lyon Parade. Road 2 is designed to contain a loop road while a section of Road 1 and Road 4 will be cul-de-sacs for approximately 4-5 allotments.</p> <p>The development consent will include conditions for road construction.</p>
5.7.2 Surrounding Road Patterns and Access	<p>The development will integrate the new road with the existing road networks being Barton Avenue and Cannelite Street. Given the topography of the land no further road networks connect to the site.</p> <p>A new footpath will be proposed around the site to connect pedestrian walkways including connection to the adjoining Wallerawang School footpath that allows access to Lake Wallace Park and Recreation area.</p>

	<p>Majority of the open space areas includes the drainage corridors, bioretention basins and electrical easements. The open space areas are located at the entrance of the road intersection of Barton Avenue and through the middle of the site to separate the allotments and visual impacts.</p> <p>A landscaping plan and vegetation management has been submitted with the application that shows adequate landscaping to be undertaken within the open space areas and in accordance with government authority requirements.</p>
5.7.3 Road hierarchy and Design	<p>All roads have been considered by the Council's Development Engineer.</p> <p>Roads are considered suitable as specified within Council's Engineering Design Guidelines for local and collector roads.</p> <p>Ability to provide for off-street parking has also been accounted in the design of the subdivision.</p>
5.7.4 Terminating Roads (Cul-De- Sacs)	<p>The development proposes two (2) cul-de-sacs, that each service less than 25 allotments as stated in the DCP. The cul-de-sacs are proposed to be 15m wide. This complies with the DCP.</p>
5.7.6 Safety and Surveillance	<p>Street lighting will be conditioned on the consent should the application be approved. This satisfies the DCP.</p>
5.7.7 Public Domain Landscaping & Street Trees	<p>The landscaping plan submitted with the application complies with e DCP requirements being one (!) street tree per allotment.</p>
5.7.8 Naming of New Roads	<p>This will be conditioned on the consent.</p>

### **Council's Policy Implications (Other than DCP's)**

#### Lithgow Community Participation Plan

Section 4.15(1)(d) of the EP&A Act requires the consent authority to consider any submissions made in accordance with this Act or the regulations.

Notification Period: 14 December 2022 to 18 January 2023 and  
14 May 2025 to 13 June 2025.

Submissions: Ten (10) submissions were received during the first public exhibition period. Two (2) submissions were in support with recommended conditions, and eight (8) objected to the proposal. One (1) submission was received during the second notification period, however this submission included concerns raised during the original notification period.

<b>Submissions</b>	<b>Applicants Response</b>	<b>Council's Assessment Officer's Response</b>
<p>1. Views along Lyon Parade with dwellings to be impacted upon by future dwellings. The following was recommended:</p> <ul style="list-style-type: none"> <li>• A 20m buffer zone between the boundary of the proposed lots and the boundary of the properties at Lyon Parade,</li> <li>• Future dwellings to be stepped or contain height restrictions.</li> </ul>	<p>The subject site is zoned under the Lithgow Local Environmental Plan 2014 for Large Lot Residential development with a minimum subdivision lot size of 800m<sup>2</sup>. The proposed subdivision has been designed to provide significantly larger allotments (i.e. at least double or more the minimum permissible size) in the higher elevation areas of the site including adjoining the existing lots fronting Lyon Parade. These lots were designed as larger</p>	<p>Due to the topography of the land having a slope towards Barton Avenue, properties along Lyon Parade will contain a higher elevation. As such, future dwelling would be required to be stepped to suit the topography.</p> <p>Approximately, eleven (11) allotments adjoin the properties located on Lyon Parade. Of the 11, only two (2) allotments, as shown on the building envelope plan, contain</p>

	<p>allotments in order to facilitate greater curtilage around any future dwellings and also to provide greater flexibility on site including an ability to provide greater separation to the existing allotments.</p> <p>The proposed subdivision itself will not impact on any views. The subdivision has been designed to provide allotments that provide a reasonable density of development on the overall site whilst balancing site constraints including consideration of views and ensuring any future built form development on site can comply with Council's DCP requirements relating to amongst other things, views. It should be noted that Council did not have a DCP at the time the previous DA was approved, and Council now has a much stronger regulatory position to control future built form development than previous verbal agreements.</p> <p>Council's DCP, which is the principal document to guide future development on the site, does not require a buffer zone to be provided between the subject site and surrounding properties. For many reasons, including constructability, it would be inappropriate to locate a road within the subject site along the rear boundary of the lots fronting Lyon Parade.</p> <p>Sufficient controls are contained within Council's DCP in order to regulate future built form development on the site. The use of building envelopes and height restrictions are inappropriate mechanisms for planning controls where a DCP provides such controls. Furthermore, providing restrictions on titles that are uninformed and very prescriptive will have the effect of stifling development designs that may in fact result in a far superior outcome in terms of impacts. Thus, the planning controls within the DCP for future development are far more appropriate from a planning perspective.</p>	<p>steep slopes that would restrict dwellings from being built within 20m from the rear boundaries. The existing dwellings located along Lyon Parade also contain approximately 10m setbacks from the rear boundaries.</p> <p>As such, Council's assessment officer considers that minimal to no views would be impeded to the existing dwellings located along Lyon Parade from the proposed subdivision.</p> <p>Height restrictions are also located within the Lithgow Development Control Plan 2021. These restrictions along with orientation of future proposed dwellings would be assessed at the Development Application stage for each proposed dwelling.</p>
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<p>2. The proposed entry/exit point off Barton Avenue opposite Charles Darwin Park be a roundabout installed given the increase in traffic, visitors to the Lake and pedestrian usage.</p>	<p>The Austroads intersection warrant assessment provided within the SEE details that a BAR/BAL intersection treatment is required for the intersection of Barton Avenue and the subject site.</p> <p>Roundabouts are not typically safe and can be intimidating for pedestrians and cyclists. Roundabouts do not perform well when traffic flows are not balanced between legs which is expected to be the case at the subject intersection.</p>	<p>Barton Avenue is owned by Transport for NSW. As such the application as referred to Transport for NSW who considers that an intersection treatment system would be suitable for the development.</p> <p>A roundabout would further not comply with the current road width.</p> <p>Transport for NSW as such has granted their consent subject to conditions on the consent.</p>
<p>3. A footpath should be constructed on both sides of the road to enable access to and from the school along Barton Avenue.</p>	<p>Further discussions will be had with Council in this regard.</p>	<p>Council recommends that a footpath be located along the front of the property to adjoin the existing footpath at the school. This is conditioned in the attached recommended consent.</p>
<p>4. Pedestrian bollards be installed at appropriate locations within the subdivision and around the Lake.</p>	<p>Further discussions will be had with Council in this regard.</p>	<p>Pedestrian access around the subdivision has been assessed by Council's Development Engineer with appropriate conditions on the consent. Given the extent of the road length, it is considered that pedestrian bollards are not required.</p>
<p>5. Tree planting be undertaken along the proposed drainage reserve to improve the aesthetics and privacy screening.</p>	<p>A landscape plan is to be provided as part of the additional information to Council.</p>	<p>A landscape plan has been submitted with the application and shows satisfactory landscaping to be undertaken throughout the site and around the drainage reserves.</p>
<p>6. Noise during construction and after works have been complete.</p>	<p>Construction works will be carried out for a limited period of time and during daytime hours. Construction works are not deemed to result in result in unreasonable noise emissions. Council would apply it's standard condition(s) relating to offensive noise during construction.</p> <p>Compared to the undeveloped site, the residential subdivision would generate more noise. The future noise generated would be consistent with that reasonably expected from a residential subdivision.</p>	<p>Noise during construction would be conditioned on the consent and be during standard daylight hours. Noise after construction is expected to be typical of residential noise, with new dwellings proposed in the future.</p>
<p>7. Increase in traffic along Lyon Parade which is a very narrow street.</p>	<p>As outlined in the Statement of Environmental Effects (SEE), the development would result in additional traffic on the local road network. The assessment contained within the SEE determined that the development would not result in adverse impacts on the local road</p>	<p>It is not expected that Lyon Parade would increase heavily with traffic, given that the shortest route to the Highway/Lithgow is via Barton Avenue.</p>

	network in terms of capacity, functioning or safety.	
8. Decrease in home valuation.	Property values are not a relevant planning consideration.	Council is unable to provide a comment in this regard, given that it is an unknown consideration.
9. Right of Carriageway located within the south west corner of the subdivision adjacent James Parade be excluded for use during construction.		This would be conditioned on the consent.
10. Water Runoff and flooding potential.		Water runoff has been assessed by WaterNSW and Council's Development Engineer and is found to be unproblematic. Two large bioretention basins are proposed for the development to prevent any potential flooding impacts. Easements are also proposed throughout the site.
11. Impact to Flora and Fauna.	A Biodiversity Development Assessment Report (BDAR) has been prepared as part of the DA to address impact on flora and fauna.	<p>The proposal has been assessed in relation to clearing of native vegetation and the Biodiversity Offset Scheme threshold under the provisions of the Biodiversity Act. A desktop assessment of threatened species using the BioNet Atlas identified the purple swamphen, kangaroo/wallaby, rainbow lorikeet, Australian Magpie, Australian Brush-turkey, peron's tree frog, common eastern froglet, spotted grass frog, smooth toadlet species as well as a number of significant common flora species being sighted on or in the vicinity of the development property.</p> <p>A Biodiversity Development Assessment Report was therefore submitted by the applicant. The Report identified that the site predominantly comprised Plant Community Type (PCT) 351 - Brittle Gum - Broadleaved Peppermint - Red Stringybark open forest in the north-western part (Yass to Orange) of the South Eastern Highlands Bioregion.</p> <p>The report further indicates that the development would impact approximately 17.22ha of native vegetation. This impact exceeds the area threshold under the Biodiversity Conservation Regulation 2017 and such impact is required to be offset</p>

		by ecosystems credits. Conditions of consent will require ecosystem credits in accordance with the Biodiversity Development Assessment Report.
12. Erosion impacts to existing dwellings along Lyon Parade.	All subdivision works will be designed and constructed so as to not impact on adjacent properties.	Conditions will be included on the consent to ensure minimal erosion impacts occur.
13. Stormwater Management - Stormwater from properties along Lyon Parade on the eastern side flows into the property with no containment.	<p>The lots fronting Lyon Parade currently have no legal right to discharge their stormwater over the subject site. The stormwater modelling included in the DA included consideration of upstream flows impacting the site. The stormwater management system has been designed to enable all lots to drain either directly to the street or piped drainage system which discharge to the various detention basins as outlined in the Concept Servicing Plans in Appendix E of the SEE.</p> <p>The stormwater management system for the site has been designed to ensure that post development flows are equal to or less than predevelopment flows. Being within the Sydney Drinking Water Catchment, the application has needed to demonstrate that the development will result in a neutral or beneficial effect on stormwater leaving the site. Water NSW was provided its approval to the proposed stormwater design in this regard.</p> <p>Existing easements for drainage of sewage will remain. Council, as the water and sewer authority, also has statutory easements for the right to access its infrastructure.</p>	Stormwater has been assessed by Council's Development Engineer. Appropriate stormwater measures will be conditioned to be undertaken along the rear properties of Lyon Parade.
14. Proposed fencing type that adjoins Lyon Parade. <i>"This Lane Way to have adequate storm water drainage as the 2 proposed drainage reserves will not be adequate enough to take all the water run off from existing houses in Lyon Parade during heavy rain events. As can be seen now with the amount of water that ends up on Barton Ave after heavy rain events.</i>		<p>The fencing type will be controlled through the Lithgow Development Control Plan 2021 at the time of dwelling constructions and that will be typical for residential areas.</p> <p>Stormwater has previously been assessed- refer to Council comment under point 13. above.</p> <p>Council will have an easement over the stormwater infrastructure for access.</p>

<i>Also this Lane Way would give council access to existing Sewer Mains."</i>		
<b>Second Notification Period</b>		
15.A Laneway be added to the existing plan behind the houses in Lyon Parade.		All properties along Lyon Parade contain access from the front of the street. There is no requirement for a laneway to be included on the development.
16. That all future house constructions be designed to be stepped down the hill.	Refer to previous response under point 1 above.	Refer to previous response under point 1 above.

### Policy 7.8 Voluntary Planning Agreements

A voluntary planning agreement has been undertaken due to the size and location of the subdivision.

On 15 November 2024, the applicant submitted a proposal to Council that included the following works to be undertaken in lieu of a monetary contribution:

- *Design, approval and construction of a swale drain and easement (to the benefit of Council) over part of proposed Lots 1-3, 9-15 and 51-53 inclusive to permit lawful and physical drainage of the adjacent land fronting Lyon Parade.*
- *Design, approval and construction of a footpath from the development site footpath network to the existing footpath within the Barton Avenue Road reserve adjacent to Lot 22 DP830058.*
- *Design, approval and construction of a BAR/BAL intersection treatment to the reserve leg of the proposed intersection to the site with Barton Avenue. Note, this treatment is in addition to the minimum requirement for the development which is the BAR/BAL required for the intersection of the Barton Avenue/Road 1.*
- *Dedication of land for proposed Lot 55 as a public reserve. The reserve would be landscaped as the per the Landscape Plan associated with the DA.*
- *Dedication of land for proposed Lot 56 as a drainage reserve. The reserve would contain stormwater management infrastructure as per the Civil Engineering Drawings, NorBE assessment and Landscape Plans associated with the DA.*

Council considered the above proposal to be unsatisfactory due to the need that the development would require these works in any case. The developer revised its offer to a monetary contribution of \$6,800 per residential lot, totalling \$367,200.

The wider community will share in benefits resulting from the Planning Agreement through the provision of open space and recreational needs.

As such, the development complies with Council's Policy 7.8.

### Policy 7.6 Development Applications by Councillors And Staff (including immediate relatives), Or On Council Owned Land & Conflicts of Interest

Council's Policy 7.6 Development Applications by Councillors and Staff or on Council Owned Land requires any application that proposes to dedicate land or an asset to Council is to be considered and determined by Council if the recommendation is for approval of that application. Given that the proposed roads, bioretention basins and open space areas will become Council assets and will be under the care and maintenance of Council, the application is to be determined by the elected Council.

Conditions such as maintenance bond will be conditioned on the consent.

### **Council's Open Space and Recreation Needs Study 2011**

Council's Open Space and Recreation Needs Study 2011 has been used to inform how open space in Wallerawang should be embellished or supplied. It states the following:

*The open space supply in Wallerawang is greatly influenced by land adjacent to Lake Wallace. Whilst privately owned, existing agreements assist in ensuring community access remains.*

As such, the proposed subdivision would allow the continued use to allow the community safe access to Lake Wallace as well as providing open space within the subdivision for the use of landscaping to provide a visual effect to the area as well as minimal recreational use (due to the easement constraints) such as walking tracks.

The study also states that while walking at Lake Wallace is popular, additional walking links are required across the town linking key community facilities such as the library, school and newer residential areas and seating areas.

The following table, as taken from the Open Space and Recreation Study 2011 shows the indicative embellishments for the both the local recreation and district recreation park.

Table 13: Indicative Embellishments for the hierarchy of Recreation Parks

Park Element	Local Recreation Park	District Recreation Park
Recreation activity areas. Elements selected will be sensitive to the setting of the park (urban to natural) and provide a mix of opportunities across communities.	Mix of 2 or 3, (e.g. toddlers, kick-about, children, active youth space, free to use courts)	Mix of 4 to 6, clustered in two or more nodes (e.g. mix of toddlers, children, youth, picnic & BBQ area, dog off-leash, skate park, meeting area, older adults, pathway systems)
Fencing/bollards, lock rail	Yes	Yes
Landscaping	Shade trees, landscaping to enhance amenity and screen boundaries	Significant landscaping
Significant revegetation required for more natural settings	As identified by relevant master plan	As identified by relevant master plan
Irrigation	Dependant on access to water, ideally high use areas are irrigated	Yes in high use areas
Feature paving/ concrete stencilling	No	Small areas around entrances
Lighting	Roadside lighting only, picnic nodes as demanded	Yes, picnic nodes and possibly some key pathways
Park Element	Local Recreation Park	District Recreation Park
Pedestrian pathway access network (Surface material will reflect the park setting and desired degree of accessibility (e.g. natural settings are enhanced with grass or gravel paths and board-walking)	Access paths, 1.2m width minimum	Access paths. May contain walk/ cycle circuit within park. 2m width minimum
Bike racks	No	Ideally
Signage	Park name sign, located at main entrance. Generic 'Local Park' street signage where entrances are on cul-de-sacs	1 to 3 as required, located at key entrances. Possibly interpretive signage (for nature appreciation areas) or trail signage (e.g. distance markers on recreation corridors)
Shade structures (over playgrounds)	Yes	Yes
Tap/bubbler	No	Yes
Bench seating	1 to 2 (if no other seating is provided), positioned for supervision of any play area, or for views/ appreciation of the surrounding park/ area	3 to 4, depending on need. Located for supervision of any play area (if not otherwise serviced by sheltered tables), and/or along recreational corridors to provide rest stops
Barbeque	No	Minimum of one, with potential to expand if demand increases
Shelters/ gazebo with tables and seating	May be provided as an activity area (e.g. a scenic viewing area)	1 to 3
Rubbish bins	Minimum of one, located near activity area, or at key access points on recreation corridors	2 or more as required to service activity area/ picnic nodes and any recreation corridors
Toilet	No	Yes
Public artwork	If available	Possible
Internal roads	No	No
Car parking	On-road only	Yes, 10 to 20 spaces with additional on-road parking
Bus pull-through	No	Ideally
Bus parking	No	No

The development therefore is considered to comply with Council's Open Space and Recreation Needs Study 2011.

## **Environmental Planning and Assessment Regulation 2021**

Section 4.15(1)(a)(iv) of the EP&A Act requires the consent authority to consider any prescribed matters under the Environmental Planning and Assessment Regulation 2021 (the Regulation). Council has assessed the development in accordance with all relevant matters prescribed by the Regulation.

## **Likely Impacts of the Development**

Section 4.15(1)(b) of the EP&A Act requires the consent authority to consider the likely impacts of that development including environmental impacts on both the natural and built environments, and the social and economic impacts in the locality.

<b>Head of Consideration</b>	<b>Comment</b>
Context, setting and adjoining land uses	The proposal is considered to be generally consistent with the context of the site, in that the proposed residential subdivision is appropriate as a result of Lithgow regional and local context. Apart from the school and Lake Wallace, the surrounding developments consist of residential uses.
Access and traffic	The development has been assessed by Councils Development Engineer and Transport for NSW. Road 1 shown on the site plan contains the main access Road from Barton Avenue to Cannelite Street/Lyon Parade. Road 2 is designed to contain a loop road while a section of Road 1 and Road 4 will be cul-de-sacs for approximately 4-5 allotments. It is considered that the road network is adequate for the development subject to conditions on the consent.
Utilities	Water, sewer, electricity and telecommunication utilities will be provided to all lots within the development to the requirements of the respective public utility authority.
Other land resources	It has been confirmed that there are no underground coal mining activities proposed on the development site.
Water/air/soil impacts	Contamination has been appropriately considered and the proposal is satisfactory subject to conditions (refer to previous comments outlined in this report). Consideration of the impacts of the development during construction on air, water and soils, including erosion and sedimentation, will be appropriately managed with a conditioned Construction Environmental Management Plan and appropriate conditions of consent.
Flora and fauna impacts	The impacts on flora and fauna have been assessed within this report and are considered to be acceptable with support of a BDAR. (Refer to previous comments).
Natural environment	The development proposes large scale changes to the natural environment through regrading and reshaping works to facilitate large, useable residential allotments.
Noise and vibration	There is potential for adverse impacts during construction on some existing neighbouring residential properties. These temporary construction impacts will be managed by the preparation and implementation of a Construction Environmental Management Plan.
Natural hazards	The site is affected by bushfire, however, the impact of this on the proposed development, and on proposed users of the road, is considered to be acceptable. Refer to previous comments and the RFS conditions on the consent.
Safety, security and crime prevention	The proposed development is considered acceptable having regard to CPTED Principles, through the orientation and design playout of the subdivision.
Social Impact	The proposed development is assessed as having no significant adverse impacts on the health and safety of the community, sense of place, community facilities or interactions between the new development and the community.
Economic Impact	The proposal is assessed as providing significant positive economic benefits resulting from the release of new residential land.
Construction	Potential and likely impacts during the construction phase have been appropriately considered and are acceptable subject to the preparation and implementation of a Construction Environmental Management Plan. This plan is condition on the consent.

### **Site Suitability**

Section 4.15(1)(c) of the EP&A Act requires the consent authority to consider the suitability of the site for the development.

The site is considered suitable for subdivision works for the following reasons:

- The development is consistent with the objectives and permissible under the applicable land use zoning under Lithgow LEP 2014.
- The proposed development is in accordance with the indicative lot layout and staging plan.
- The constraints of the site have been considered in the development, which includes sloping sites, biodiversity, bushfire and heritage.

The site is not subject to any other known risk or hazard that would render it unsuitable for the proposed development.

## **Contributions**

### **Section 7.12 Development Contributions Plan 2024**

Council's Section 7.12 Development Contributions Plan 2024 does not apply to this development as the applicant propose to undertake a Voluntary Planning Agreement in lieu of development contributions.

### **Development Servicing Plan for Water Supply and Sewerage**

Under the *Water Management Act 2000*, Section 305, an application for Certificate of Compliance must be submitted to Council. This Act states:

#### **305 Application for certificate of compliance**

- (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.

Contributions under the Development Servicing Plan for Water Supply and Sewerage under Section 64 of the *Local Government Act 1993* for the additional allotments will be required to be paid prior to the release of the Subdivision Certificate. This will be conditioned on the consent should the application be approved.

## **The Public Interest**

The public interest is best served by the orderly and economic use of land for permissible uses and that does not impact unreasonably on the use and development of surrounding land. Based on the information submitted and an assessment of the proposal, the development is considered to be in the public interest as per the following:

**Road Extension:** The development requires an addition and new road network that will service the lots within the subdivision. As a result, this road extension will be dedicated to Council. Therefore, Council is required to be satisfied that this road will be at a standard acceptable as a roads authority. This is of public interest as the additional road and extension 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. However, contributions through the Water Management Act 2000 will be applicable and will provide support to Council's ongoing maintenance of this utility.

**Water:** The development requires additional connections to the reticulated water services. 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. However, contributions through the Water Management Act 2000 will be applicable and will provide support to Council's ongoing maintenance of this utility.

**Designation of land and associated assets:** The development proposes to dedicate land to Council which retains the stormwater infrastructure being bio-retention swales. This land and bio-retention swale will require ongoing

maintenance once the land is dedicated to Council. This is of public interest as there is additional land and infrastructure that will require maintenance by Council resulting in future costs to the community.

**Discussions and Conclusions**

The proposal generally complies with the relevant provisions of all applicable environmental planning instruments and regulatory provisions. The proposal not expected to result in any significant negative impacts upon the environment or upon the amenity of the locality. The proposed development is recommended for determination by way of approval subject to the conditions outlined below.

**Attachments**

Schedule A- Conditions of consent,  
Schedule B- General Terms of Approval Rural Fire Service

**Recommendation**

**THAT** Application DA226/22 is approved subject to conditions set out in Schedule A.

Assessment Prepared By: Lauren Stevens  
Development Assessment Planner

Manager: Sandra Politi  
Development Manager

**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
- To ensure that adequate road and drainage works are provided.
- 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)**

ADMINISTRATION CONDITIONS	
1.	Approved Development

	Development Consent is granted for a Torrens Title subdivision of 1 Lot into 54 Residential Allotments, 4 New Roads, 2 Lots for Drainage and Public Reserve, on land known as Lot 1 DP1253903, 19 Barton Avenue, Wallerawang.																																																																																																																																																																								
	Condition Reason: To ensure all parties are aware of the approved development description and development address.																																																																																																																																																																								
2.	<p><b>Approved plans and supporting documentation</b></p> <p>Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.</p> <table border="1" data-bbox="225 577 1449 2018"> <thead> <tr> <th colspan="7"><b>Approved Plans</b></th> </tr> <tr> <th>Title</th> <th>Author</th> <th>Project</th> <th>Sheet</th> <th>Revision</th> <th colspan="2">Date</th> </tr> </thead> <tbody> <tr> <td>Subdivision Concept Layout (Aerial)</td> <td>Integrated Consulting</td> <td>20037-TP02_H</td> <td>1/3</td> <td>H</td> <td colspan="2">02/07/2024</td> </tr> <tr> <td>Subdivision Concept Layout</td> <td>Integrated Consulting</td> <td>20037-TP02_H</td> <td>2/3</td> <td>H</td> <td colspan="2">02/07/2024</td> </tr> <tr> <td colspan="7" style="background-color: #f2f2f2;"></td> </tr> <tr> <td>Landscape Plans- Cover Sheet</td> <td>Sala4D</td> <td>-</td> <td>L-000</td> <td>A</td> <td colspan="2">24/06/2024</td> </tr> <tr> <td>Landscape Plan</td> <td>Sala4D</td> <td>-</td> <td>L-001</td> <td>A</td> <td colspan="2">24/06/2024</td> </tr> <tr> <td>Vegetation Management Plan</td> <td>Sala4D</td> <td>-</td> <td>L-002</td> <td>A</td> <td colspan="2">24/06/2024</td> </tr> <tr> <td>Planting Schedule and Details</td> <td>Sala4D</td> <td>-</td> <td>L-003</td> <td>A</td> <td colspan="2">24/06/2024</td> </tr> <tr> <td colspan="7" style="background-color: #f2f2f2;"></td> </tr> <tr> <td>Civil Plans- Cover Sheet</td> <td>Calare Civil</td> <td>2021.0574</td> <td>G01</td> <td>P7</td> <td colspan="2">05/09/2024</td> </tr> <tr> <td>General Arrangement Plan</td> <td>Calare Civil</td> <td>2021.0574</td> <td>G02</td> <td>P7</td> <td colspan="2">05/09/2024</td> </tr> <tr> <td>Road Layout Index Plan</td> <td>Calare Civil</td> <td>2021.0574</td> <td>R01</td> <td>P7</td> <td colspan="2">05/09/2024</td> </tr> <tr> <td>Roads 01 &amp; 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	Preliminary Basin 03 Music Modelling Results	Calare Civil	2021.0574	SW08	P7	05/09/2024
	Preliminary Sewer Layout Plan	Calare Civil	2021.0574	SS01	P7	05/09/2024
	Preliminary Watermain Layout Plan	Calare Civil	2021.0574	W01	P7	05/09/2024
<b>Approved Documents</b>						
	<b>Title</b>	<b>Author</b>	<b>Project</b>	<b>Sheet</b>	<b>Revision</b>	<b>Date</b>
	Preliminary Contamination Investigation	Envirowest Consulting	R15619c		0	16/06/2023
	Biodiversity Development Assessment Report	AREA Environmental Consultant & Heritage Consultants	-	-	-	01/12/2022
	Bush Fire Assessment Report	Integrated Consulting	20037	-	B	04/12/2022
	Aboriginal Cultural Heritage Due Diligence Assessment	AREA Environmental Consultant & Heritage Consultants	-	-	-	29/10/2020
	Geotechnical Investigation Report	Macquarie Geotech	G23520	-	01	15/09/2023
	Statement of Environmental Effects <b>Note: that parts of this document is superseded due to amended plans being submitted during the assessment process.</b>	Integrated Consulting	20037	-	B	4 December 2022
<p>In the event of any inconsistency between the approved plans and documents, the approved plans prevail. In the event of any inconsistency with the approved plans/documents and a condition of this consent, the condition prevails.</p>						
<p>Condition Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.</p>						
3.	<p><b>Contract Works Insurance</b> The developer is to ensure that Contract Works Insurance is kept current for the duration of the development and must also ensure that all Contractors and Subcontractors working within Council road reserves possess and maintain adequate Public Liability Insurance (\$20 million), with copies to be provided to Council prior to commencement of any works. Any potential claims that result from negligent actions performed by Contractors / Subcontractors engaged by the Applicant within Council road reserves will be borne by the Applicant and not Lithgow City Council.</p>					

	Condition Reason: To ensure the development has no impact to Council's Assets.
4.	<p><b>Council Assets</b> Prior to the commencement of any works on site, the applicant shall advise Council of any damage to property controlled by Council which adjoins the site including kerbs, gutters, footpaths, walkways, reserves and the like. Failure to identify existing damage will result in all damage detected after completion of the building work being repaired at the applicant's expense.</p>
	Condition Reason: To ensure the development has no impact to Council's Assets.
5.	<p><b>Right of Carriageway</b> The existing Right of Carriageway denoted as "(A)" on DP1253903 is not permitted to be used for construction purposes, excluded for use during construction except with prior written approval from the owners of Lot 1 DP1239161.</p>
	Condition Reason: To ensure minimal impacts to surrounding landowners.
6.	<p><b>Planning Agreement</b> A Planning Agreement is to be entered with Council in the terms of the developer's offer dated 30 May 2025 (and Council's template deed of planning agreement) in connection with DA226/22.</p>
	Condition Reason: To require a planning agreement be entered into (section 7.7(3) of the <i>Environmental Planning and Assessment Act 1979</i> ).

## GENERAL TERMS OF APPROVAL AND CONCURRENCE REQUIREMENTS

### RURAL FIRE SERVICE REQUIREMENTS

7.	<p><b>Asset Protection Zones</b> At the issue of a subdivision certificate, and in perpetuity to ensure ongoing protection from the impact of bush fires, asset protection zones must be provided as shown on Figure 11 Bushfire Protection Measures of the Bushfire Assessment Report (dated 4 December 2022, Ref: 20040, prepared by Integrated Consulting). This includes all the proposed residential lots, excluding the tree protection zone on proposed Lot 13, to be maintained as an inner protection area (IPA) in accordance with the requirements of Appendix 4 of Planning for Bush Fire Protection 2019. When establishing and maintaining an inner protection area (IPA) the following requirements apply in accordance with the requirements of Appendix 4 of Planning for Bush Fire Protection 2019:</p> <ul style="list-style-type: none"> <li>• tree canopy cover should be less than 15% at maturity;</li> <li>• trees at maturity should not touch or overhang the building;</li> <li>• lower limbs should be removed up to a height of 2 metres above the ground;</li> <li>• tree canopies should be separated by 2 to 5 metres;</li> <li>• preference should be given to smooth barked and evergreen trees;</li> <li>• large discontinuities or gaps in vegetation should be provided to slow down or break the progress of fire towards buildings;</li> <li>• shrubs should not be located under trees;</li> <li>• shrubs should not form more than 10% ground cover; and</li> <li>• clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation.</li> <li>• grass should be kept mown (as a guide grass should be kept to no more than 100mm in height); and</li> <li>• leaves and vegetation debris should be removed.</li> </ul>
	Condition Reason: The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building.
8.	<p><b>Access – Public Roads</b> Proposed access roads must comply with the general requirements of Table 5.3b of Planning for Bush Fire Protection 2019 and the following:</p> <ul style="list-style-type: none"> <li>• are two-way sealed roads with minimum 8 metre carriageway width kerb to kerb;</li> </ul>

	<ul style="list-style-type: none"> <li>● a minimum vertical clearance of 4 metre to any overhanging obstructions, including tree branches, is provided.</li> <li>● parking is provided outside of the carriageway width;</li> <li>● are through roads, and these are linked to the internal road system at an interval of no greater than 500 metre;</li> <li>● curves of roads have a minimum inner radius of 6 metre;</li> <li>● the maximum grade road is 15 degrees and average grade of not more than 10 degrees;</li> <li>● the road crossfall does not exceed 3 degrees;</li> <li>● traffic management devices are constructed to not prohibit access by emergency services vehicles;</li> <li>● dead end roads are not recommended, but if unavoidable, are not more than 200 metres in length, incorporate a minimum 12 metres outer radius turning circle, and are clearly sign posted as a dead end;</li> <li>● the capacity of perimeter and non-perimeter road surfaces and any bridges/causeways is sufficient to carry fully loaded firefighting vehicles; bridges/causeways are to clearly indicate load rating;</li> <li>● hydrants are located outside of parking reserves and road carriageways to ensure accessibility to reticulated water for fire suppression; and</li> <li>● hydrants are provided in accordance with the relevant clauses of AS 2419.1:2005 - Fire hydrant installations System design, installation and commissioning</li> </ul>
	<p>Condition Reason: The intent of measures is to provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area.</p>
9.	<p><b>Water and Utility Services</b></p> <p>The provision of water, electricity and gas must comply with the following in accordance with Table 5.3c of Planning for Bush Fire Protection 2019:</p> <ul style="list-style-type: none"> <li>● reticulated water is to be provided to the development where available;</li> <li>● fire hydrant, spacing, design and sizing complies with the relevant clauses of Australian Standard AS 2419.1:2005;</li> <li>● hydrants are not located within any road carriageway;</li> <li>● reticulated water supply to urban subdivisions uses a ring main system for areas with perimeter roads;</li> <li>● fire hydrant flows and pressures comply with the relevant clauses of AS 2419.1:2005;</li> <li>● all above-ground water service pipes are metal, including and up to any taps;</li> <li>● where practicable, electrical transmission lines are underground;</li> <li>● where overhead, electrical transmission lines are proposed as follows: <ul style="list-style-type: none"> <li>a. lines are installed with short pole spacing (30 metres), unless crossing gullies, gorges or riparian areas; and</li> <li>b. no part of a tree is closer to a power line than the distance set out in accordance with the specifications in ISSC3 Guideline for Managing Vegetation Near Power Lines.</li> </ul> </li> <li>● reticulated or bottled gas is installed and maintained in accordance with AS/NZS 1596:2014 The - storage and handling of LP Gas, the requirements of relevant authorities, and metal piping is used;</li> <li>● all fixed gas cylinders are kept clear of all flammable materials to a distance of 10 metres and shielded on the hazard side;</li> <li>● connections to and from gas cylinders are metal; polymer sheathed flexible gas supply lines are not - used; and</li> <li>● above-ground gas service pipes are metal, including and up to any outlets.</li> </ul>
	<p>Condition Reason: The intent of measure is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building.</p>
10.	<p><b>Landscaping Assessment</b></p>

	<p>Landscaping within the required asset protection zone must comply with Appendix 4 of Planning for Bush Fire Protection 2019. In this regard, the following principles are to be incorporated:</p> <ul style="list-style-type: none"> <li>• A minimum 1 metre wide area (or to the property boundary where the setbacks are less than 1 metre), suitable for pedestrian traffic, must be provided around the immediate curtilage of the building;</li> <li>• Planting is limited in the immediate vicinity of the building;</li> <li>• Planting does not provide a continuous canopy to the building (i.e. trees or shrubs are isolated or located in small clusters);</li> <li>• Landscape species are chosen to ensure tree canopy cover is less than 15% (IPA), and less than 30% (OPA) at maturity and trees do not touch or overhang buildings;</li> <li>• Avoid species with rough fibrous bark, or which retain/shed bark in long strips or retain dead material in their canopies;</li> <li>• Use smooth bark species of trees species which generally do not carry a fire up the bark into the crown;</li> <li>• Avoid planting of deciduous species that may increase fuel at surface/ ground level (i.e. leaf litter);</li> <li>• Avoid climbing species to walls and pergolas;</li> <li>• Locate combustible materials such as woodchips/mulch, flammable fuel stores away from the building;</li> <li>• Locate combustible structures such as garden sheds, pergolas and materials such as timber garden furniture away from the building; and</li> <li>• Low flammability vegetation species are used.</li> </ul> <p>Condition Reason: The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting fire fighting activities.</p>
<b>WATERNSW REQUIREMENTS</b>	
11.	<p><b>General</b></p> <p>The lot layout and works of the subdivision shall be as shown on the Plan Showing Subdivision Concept Layout (Job reference: 20037, Drawing No 20037-TP02_H, Rev H, dated 02/07/2024) prepared by Integrated Consulting Pty Ltd. No revisions to lot layout, works or staging of the subdivision that will have any impact on water quality, shall be permitted without the agreement of Water NSW.</p> <p>Condition Reason: Water NSW has based its assessment under State Environmental Planning Policy (Biodiversity and Conservation) 2021 on this version of the subdivision.</p>
12.	<p><b>Sewage Pump Station and Sewerage infrastructure</b></p> <p>The existing and new sewerage infrastructure including existing sewage pump station shall:</p> <ul style="list-style-type: none"> <li>• be designed with sufficient capacity to collect and transfer all wastewater generated by the subdivision</li> <li>• ensure it has sufficient hydraulic capacity to accommodate the additional wastewater load generated by the subdivision, and</li> <li>• meet Council's requirements and be to the satisfaction of Council.</li> </ul> <p>Condition Reason: To ensure that the design and operation of the sewerage infrastructure is undertaken in a way that minimises the risk of sewage overflows to ensure a sustainable neutral or beneficial effect on water quality over the longer term.</p>
13.	<p><b>Subdivision Roads and Stormwater Management</b></p> <p>a) The subdivision roads shall be located and constructed as shown on the Road Layout Index Plan and Preliminary Plans (Job No. 2021.0574, Drawing Nos. R01 to R18, Issue P7, dated 05/09/2024) prepared by Calare Civil Pty Ltd. The subdivision roads shall:</p> <ul style="list-style-type: none"> <li>• be sealed, and</li> <li>• incorporate stormwater management measures to collect all road runoff via a series of pits and pipes and directed to a bioretention/detention basin.</li> </ul> <p>b) 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.</p>

- c) All stormwater management measures, as shown on the Preliminary Stormwater Layout Plan and Details (Job No. 2021.0574, Dwg Nos. SW01 to SW07, Iss P7, dated 05/09/2024) prepared by Calare Civil Pty Ltd, shall be incorporated in the final stormwater drainage plan. The final stormwater drainage plan 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 and pipes o swales to convey runoff from the existing upstream dwellings,
    - o sediment forebays or equivalent prior to the inlet of the basins,
    - o bioretention/detention basins,
  - be implemented.
- d) The bio-retention/detention basins shall:
- be designed consistent with Adoption Guidelines for Stormwater Biofiltration Systems Version 2 (Payne et al, 2015, Melbourne, CRC for Water Sensitive Cities)
  - have appropriately sized sediment forebays or equivalent prior to the inlet of the basins
  - incorporate the following for the sediment forebays:
    - o a minimum surface area of 409 square metres,
    - o have an extended detention depth of a minimum of 150mm.
  - incorporate the following for bio-retention /detention basin 01:
    - o a minimum filter area of 250 square metres,
    - o a minimum base detention area of 950 square metres,
    - o direct all discharge and overflow from bio-retention /detention 01 to bio-retention /detention basin 02 via suitably sized stormwater drainage pipe,
  - incorporate the following for bio-retention /detention basin 02:
    - o a minimum filter area of ~~460~~ 480 square metres,
    - o a minimum base detention area of ~~640~~ 1,125 square metres,
    - o direct all discharge and overflow from bio-retention /detention basin 02 to Council's stormwater infrastructure via armoured discharge points such that discharge does not cause erosion,
  - have an extended detention depth of 150mm,
  - have a filter depth (excluding transition layers) of 400 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),
  - be accessible from roads by machinery to facilitate cleaning, monitoring and maintenance of the structures,
  - be permanently protected from vehicular damage by bollards, fences, castellated kerbs, or similar structures, with a sign to be erected to advise of its nature and purpose in water quality management, and
  - be protected by sediment and erosion control measures during any construction and post-construction phase until the ground surface is revegetated or stabilised.
- d) No changes to stormwater treatment and management that will have any impact on water quality, shall be permitted without the agreement of Water NSW.
- e) 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.

	Condition Reason: To ensure compliance with WaterNSW requirements.
14.	<p><b>Operational Environmental Management Plan</b></p> <p>a) An Operational Environmental Management Plan (OEMP) shall be prepared by a person with knowledge and experience in the preparation of such plans. The OEMP shall:</p> <ul style="list-style-type: none"> <li>• be prepared in consultation with Council prior to the issuance of a Subdivision Certificate,</li> <li>• be provided to Council prior to handing over the stormwater management assets to Council,</li> <li>• include details on the location, description, and function of stormwater management structures such as pits, pipes, sediment forebays or equivalent, bioretention/detention basins, swales and any other stormwater structures and drainage works,</li> <li>• outline the responsibilities and detailed requirements for the inspection, monitoring and maintenance of all stormwater management structures, before and after handing over to Council, including the frequency of such activities,</li> <li>• identify the individuals or positions responsible for inspection and maintenance activities, before and after handing over to Council, including a reporting protocol and hierarchy, and</li> <li>• include checklists for recording inspections and maintenance activities, particularly for bioretention/detention basins.</li> </ul> <p>b) All stormwater treatment devices shall be monitored, maintained, and managed as per the Operational Environmental Management Plan after all comments made by Council during the consultation process have been appropriately resolved and incorporated in the final Operational Environmental Management Plan.</p>
	Condition Reason: To ensure that the proposed subdivision roads and associated stormwater quality management infrastructure will have a sustainable neutral or beneficial impact on water quality during the operational phase of the development.
15.	<p><b>Construction Activities</b></p> <p>a) A Soil and Water Management Plan shall be prepared for all works required as part of the subdivision including the subdivision roads by a person with knowledge and experience in the preparation of such plans. The Plan shall:</p> <ul style="list-style-type: none"> <li>• incorporate the Preliminary Bulk Earthworks Plan (Job No. 2021.0574, Drawing No. EW01, Iss P5, dated 23/07/24) prepared by Calare Civil Pty Ltd,</li> <li>• meet the requirements outlined in Chapter 2 of NSW Landcom’s Soils and Construction: Managing Urban Stormwater (2004),</li> <li>• be prepared prior to the issuance of a Subdivision Works Certificate, and be to the satisfaction of the Principal Certifier,</li> <li>• include controls to prevent sediment or polluted water leaving the construction site or entering any natural drainage lines or stormwater drain.</li> </ul> <p>b) A suitably qualified and certified professional shall:</p> <ul style="list-style-type: none"> <li>• oversee the implementation of the Soil and Water Management Plan and effective erosion and sediment controls at the site prior to and during any construction activity including site access and works within waterways and</li> <li>• certify in writing to Water NSW and Council that erosion and sediment controls have been installed and maintained at the site in accordance with the Soil and Water Management Plan.</li> </ul> <p>The controls shall be regularly inspected, maintained, and retained until works have been completed and ground surface stabilised or groundcover re-established.</p>

	Condition Reason: To manage adverse environmental and water quality impacts during the construction phase of the development to minimise the risk of erosion, sedimentation, and pollution within or from the site during this phase.
<b>TRANSPORT FOR NSW REQUIREMENTS</b>	
16.	<p><b>General</b></p> <p>a) Any intersection upgrade for Barton Avenue/new local road, including a Basic Right Turn and Basic Left Turn, must be capable of accommodating the swept path of the design vehicle and be designed in accordance with <i>Austrroads Guide to Road Design</i>, Australian Standards and relevant TfNSW supplements, including achieving Safe Intersection Sight Distance (SISD).</p> <p>b) All new lots must be provided with vehicular access to the local road network rather than to Barton Avenue, classified (Regional) road.</p> <p>c) Council must be satisfied that the intersection with Barton Avenue does not interfere with the safety and operation of the existing bus stop located at the new intersection and that pedestrians are able to safely cross Barton Avenue to connect to the public footpath.</p> <p>d) The access is to be constructed in accordance with Council's Engineering standards, are to match existing road levels and not adversely alter or interfere with existing road drainage.</p> <p>e) Heavy vehicle associated with preparatory and construction works are to only access the site via approved heavy vehicle routes and must not coincide with network peak hour.</p>
	Condition Reason: To ensure compliance with Transport for NSW requirements.
<b>ENDEAVOUR ENERGY REQUIREMENTS</b>	
17.	<p><b>Easement Management</b></p> <p>Preference is for no activities to occur in easements and they must adhere to minimum safety requirements.</p> <p>Condition Reason: To ensure the development complies with Endeavor Energy Requirements.</p>
18.	<p><b>Easement Subdivision</b></p> <p>The incorporation of easements into to multiple / privately owned lots is generally not supported</p> <p>Condition Reason: To ensure the development complies with Endeavor Energy Requirements.</p>
19.	<p><b>Earthing</b></p> <p>The construction of any building or structure connected to or in close proximity to the electrical network must be properly earthed.</p> <p>Condition Reason: To ensure the development complies with Endeavor Energy Requirements.</p>
20.	<p><b>Network Access</b></p> <p>Access to the electricity infrastructure may be required at any time particularly in the event of an emergency.</p> <p>Condition Reason: To ensure the development complies with Endeavor Energy Requirements.</p>
21.	<p><b>Network Connection</b></p> <p>Applicants will need to submit an appropriate application based on the maximum demand for electricity for connection of load.</p> <p>Condition Reason: To ensure the development complies with Endeavor Energy Requirements.</p>
22.	<p><b>Vegetation Management</b></p> <p>Landscaping that interferes with electricity infrastructure is a potential safety risk and may result in the interruption of supply.</p> <p>Condition Reason: To ensure the development complies with Endeavor Energy Requirements.</p>
<b>TRANSGRID</b>	
23.	<p><b>General Conditions</b></p> <p>a) A "Restriction-as-User" (88B Instrument) is required to be placed on the titles of any created lots that may become affected by a transmission line easement.</p> <p>b) Where access by Transgrid vehicles is expected (along tracks and within 30m of a structure), batters/ground slopes shall be at most 1 in 6 and underground services must be capable of withstanding loads of maintenance vehicles (43t).</p>

- c) Transgrid shall be provided with a 3D DXF for ground clearance review at the detailed design stage.
- d) Trees within the easement can grow to a maximum mature height of 4 m and cannot be within 30m of a Transgrid structure.
- e) During the construction phase, Transgrid should not be restricted from undertaking regular maintenance and inspection activities. After the works, access to the Transmission Line and structures shall always be available for Transgrid's plant and personnel.
- f) Any machinery operating within Transgrid's easement shall be at least 22m away from TL structures or supporting guys and not exceed 4.3 m in height.
- g) The easement area shall not be used for temporary storage of construction spoil, topsoil, gravel, or any other construction material.
- h) Adequate precautions shall be taken during construction to protect Transgrid structures from accidental damage.
- i) Non-metallic water/stormwater pipe is preferred within the transmission line easement. If the water pipe is metallic, isolation sections, such as RCP pipe and rubber ring joint, are required at entry and exit to the easement.
- j) If fence heights are not stipulated on the plans, approval is based on the assumption that all fences will be at most 2.5m. The proponent must provide full details if fences are planned taller than 2.5m. Metallic fencing (including temporary fences) must be earthed. For more information, please refer to "Transgrid Fencing Guidelines."
- k) Works must not create excessive quantities of dust, and the proponent must employ dust suppression. A dust management plan is not expected to be provided to Transgrid. Still, provision must be made for such a plan to avoid causing damage to the transmission line, such as dust pollution on insulators.
- l) Street lighting cannot exceed 4.3m in height, must not be climbable, and must be electrically isolated in accordance with AS 3000 outside the easement. Note: Exclusion zone requirements do not apply to lighting and external power sources; however, all other requirements apply.

Condition Reason: To ensure the development complies with Transgrid Requirements.

24. **Access and Maintenance**

- a) The development is to be designed so that during construction phase TransGrid is not restricted from undertaking normal maintenance & inspection activities and, at completion of works, access to Transmission Lines & structures shall be available at all times for Transgrid plant & personnel.
- b) Any slopes for where travel is required by TransGrid's heavy maintenance vehicles must not have a grade steeper than 1:6 (1:8 or less is preferred) – to be considered for proposed batter.
- c) If any future fencing is to be proposed within the easement corridor, fencing is to be installed in accordance with TransGrid Fencing Guidelines.
- d) If any fencing is to be proposed across the easement corridor or access track, a gate will be required to be installed to maintain continuous travel to the structure & along the easement.
- e) All access to Transgrid easement should have industrial grade lay-over/Kerb crossing for access to easements turning off roadways.
- f) Consideration is to be given in the design works for any proposed access ways/roads to TransGrid's easement & structures to cater for the weight and size of TransGrid's maintenance vehicles - to withstand the 43-tonne load capacity of maintenance trucks.

	<p>g) If any services are to be proposed to be situated within the easement or where travel is required by TransGrid maintenance vehicles, it must be ensured that the trench backfill can safely withstand the 43-tonne load capacity of maintenance trucks without causing damage to any pipes/conduits and services.</p> <p>h) Request industrial grade layover/driveway access be provided on both road 02 and 03 to have continues access along transmission line easement. Require access to be maintained to 94X easement, new access may be required via road 01.</p> <p>i) All fence and gate earthing must be installed in accordance with fencing guidelines.</p> <p>j) Any fencing installed on the easement must not exceed 2.5m in height.</p> <p>k) During construction, adequate precaution shall be taken to protect structures from accidental damage, and the easement area shall not be used for temporary storage of construction spoil, topsoil, gravel or any other construction material.</p> <p>l) All works near/within the easement would need to be carried out in accordance to TransGrid's Easement Guidelines, TransGrid Fencing Guidelines and Workcover's Code of Practice 2006 – 'Work Near Overhead Powerlines'.</p>
	Condition Reason: To ensure the development complies with Transgrid Requirements.

<b>FEES, CHARGES AND CONTRIBUTIONS CONDITIONS</b>	
25.	<p><b>Voluntary Planning Agreement</b> Prior to the issue of a Subdivision Certificate, a monetary contribution is to be paid at a rate of \$6,800.00 per residential lot, totaling \$367,200.00, for the provision of open space and recreational needs, pursuant to the offer dated 30 May 2025 and the Deed of Planning Agreement to be entered with Council.</p>
	Condition Reason: To demonstrate compliance and ensure fees are paid in accordance with the Lithgow Contributions Plan.
26.	<p><b>Development Contributions - Development Services Plans for Water Supply and Sewerage</b> Development Contributions are levied in accordance with the Development Service Plans for Water Supply and Sewerage made pursuant to section 64 of the Local Government Act 1993 and Division 5 of Part 2 of Chapter 6 of the Water Management Act 2000. The amount of the contribution per Equivalent Tenement is published in Council's adopted Fees and Charges. Contributions are subject to annual CPI increases and the levy is calculated at the time of payment.</p> <p><i>Advisory Note Calculations:</i> The charges for the subject DA are as such:</p> <p>Wallerawang Sewer charges applicable Charges calculated utilising LCC Development Servicing Plan, Water Directorate Section 64 Determination of Equivalent Tenements Guidelines</p> <p>Charge applicable:</p> <p>Sewer 53 lots + 1 concessional lot x 1.0(ET) x \$11,455.64 (charge) = \$607,148.92</p> <p><b>Total charges as at 29/11/2024 = \$607,148.92</b></p> <p>The number of Equivalent Tenements in 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.</p>

Condition Reason: To demonstrate compliance and ensure fees are paid in accordance with the Lithgow Council's Development Servicing Plan.
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### SUBDIVISION WORK

#### BEFORE ISSUE OF A SUBDIVISION WORKS CERTIFICATE

27.	<p><b>Prior to the commencement of any works</b></p> <p>Prior to the commencement of any work, a Subdivision Works Certificate shall be issued by Council or accredited Certifier for the development. A Certificate issued by an accredited Certifier must be lodged to Council along with any approved plans and documents prior to commencing works.</p>
	Condition Reason: To ensure site management measures are implemented during the carrying out of site work.
28.	<p><b>Engineering Requirements - General</b></p> <p>a) Prior to the issue of any Subdivision Works Certificate, the Certifying Authority shall ensure that engineering plans shall be generally consistent with the stamped approved concept plans prepared by CALARE CIVIL CONSULTING ENGINEERS, Job Number: 2021.0574, Revision up to P7, Dated 05/09/2024.</p> <p>b) All subdivision works must be designed in accordance with the development consent, Council's "Guidelines for Civil Engineering Design and Construction for Development", Austroads Guidelines and best engineering practice.</p> <p>c) The subdivision works may include but are not limited to the following:</p> <ul style="list-style-type: none"> <li>• Public and private roads</li> <li>• Stormwater management (quantity and quality)</li> <li>• Private access driveways</li> <li>• Sediment and erosion control measures</li> <li>• Overland flow paths</li> <li>• Traffic facilities</li> <li>• Earthworks</li> <li>• culverts, retaining walls and other structures</li> <li>• Landscaping and embellishment works</li> </ul> <p>d) The Subdivision Works Certificate must be supported by engineering plans, calculations, specifications and any certification relied upon.</p> <p>e) Prior to the issue of any Subdivision Works Certificate, plans are to be amended to provide a 150mm high integral kerb and gutter that is required adjacent to public reserves according to Council's Guidelines for Civil Engineering Design and Construction, February 2012, Clause 2.3.2 Kerb &amp; Gutter.</p> <p>f) Prior to the issue of any Subdivision Works Certificate, plans are to be amended to provide a concrete sealed maintenance access driveway to each of the Detention Basins.</p> <p>g) Prior to the issue of any Subdivision Works Certificate, plans are to be amended to extend existing kerb and gutter aligned Pedestrian Concrete Footpath matching existing from Wallerawang Public School to property boundary according to 2.3.7 Footpath and Cycleways. The maximum permissible footpath grade is generally 14%. Concrete steps will be required in accordance with AS1428 where gradients exceed 14%.</p> <p>h) A pedestrian footpath is to be constructed within and around the subdivision for access to Barton Avenue and to the public reserve in the locations as shown on the approved plans prepared by Calare Civil.. The footpaths are to be constructed to Council's Engineering Guidelines and shown on the Subdivision Works Plans.</p>

	<p>i) Each residual or open reserve lot grading for Lot 14, 15, 25, 56 shall not exceed maximum 1:4 (vertical:horizontal) or 25% for maintenance access according to 1.13.2. Lot Filling/Grading. Slopes steeper than 1:4 will not be mown, and consequently mulched groundcover or stone pitching should be specified if steep slopes are required in urban areas according to 2.7 Landscaping. Batter slopes of grassed waterways should be a minimum of 1:6 (vertical:horizontal) or 16% according to 3.5.6 Batter Slopes for Stormwater.</p> <p>j) Prior to the issue of any Subdivision Works Certificate, the Certifying Authority shall ensure that the proposed roads have been designed in accordance with Lithgow City Council's Guidelines for Civil Engineering Design and Construction for Developments and the following criteria: ESA: <math>1 \times 10^5</math> or more.</p> <p>A copy of the pavement design prepared and certified by a suitably qualified geotechnical engineer must accompany the application for Construction.</p> <p>k) All subdivision and associated works are to be designed and constructed in accordance with the following documents or current equivalent documents at the time of application.</p> <ol style="list-style-type: none"> <li>Relevant Austroads publications</li> <li>Associated Transport for NSW (TfNSW) (formerly the Roads and Maritime Services (RMS)) supplements and Technical Directions</li> <li>Council's Development Control Plan</li> <li>Lithgow City Council – Engineering Specifications for Development Design and Construction.</li> </ol> <p>l) Any driveway construction works (new or replacement of existing driveway access) needs to comply with Council's Policy 10.18 – Specification for the Construction of Driveways, Footpath/Gutter Crossing and Foot paving (available on Council's website). The application fee for the inspection is required to be paid prior to inspection being undertaken. Notification of at least 48 hours is required to arrange inspections (no inspection undertaken on Fridays). Further information can be obtained regarding Driveway approvals by contacting Council's Infrastructure Services Department on (02) 6354 9999 during business hours.</p> <p>m) Vehicular access and manoeuvring associated with the subject development shall be designed in accordance with AS 2890.1.</p> <p>n) A minimum one (1) metre clearance shall be provided between proposed driveway crossings and any street tree/existing services. All existing services conflicting with the proposed driveway are to be relocated in accordance with the relevant Authority's regulations and standards.</p> <p>o) The access driveways shall have a minimum of 150mm of DGB-20 road base applied and compacted providing a smooth transitional surface. Access is to be constructed providing a minimum entry splay of 6.0 metres in width, tapering back into a minimum 4.0-metre-wide internal access road.</p> <p>p) Upon completion of all works in the road reserve, all disturbed verge areas fronting development site are to be turfed. The turf shall extend from the back of kerb to the property boundary, with the exception of driveways, concrete footpaths, service lids or other infrastructure which is not to be turned over. Turf laid up to concrete footpaths, service lids or other infrastructure shall finish flush with the edge.</p>
	<p>Condition Reason: To ensure the development complies with Council's Guidelines.</p>
29.	<p><b>Stormwater</b></p> <p>Prior to the issue of the Subdivision Works Certificate, the applicant is to design a swale drain (or similar) and easement (to the benefit of Council) over part of proposed Lots 1-3, 9-13, 15 and 51-53 inclusive to permit lawful and physical drainage of the adjacent land fronting Lyon Parade.</p> <p>Should the plan be approved, the construction of the swale drain is to be undertaken at the applicant's cost.</p>
	<p>Condition Reason: To ensure that lawful and suitable drainage easements are provided.</p>
	<p><b>Road Design and Testing</b></p>

30. Each layer of pavement shall be tested for compaction and deflection as detailed below. The Director of Infrastructure and Economy 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"> <li>• Unbound Materials</li> <li>• Cemented Materials</li> </ul> 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.
	Condition Reason: To ensure the development complies with Council's Guidelines.
31.	<p><b>Road Infrastructure</b> Road infrastructure including intersection treatments, road pavement, foot/cycle/shared paths, kerb and gutter, stormwater drainage, services, landscaping (including street trees), street lighting, signage and markings is to be provided for each Stage of the subdivision, generally in accordance with the approved plans or as otherwise detailed in this consent. Full details are to be included in the detailed design drawings for a Subdivision Works Certificate application.</p>
	Condition Reason: To ensure the development complies with Council's Guidelines.
32.	<p><b>Drainage Design</b> A detailed drainage design including DRAINS is to be submitted to Council for the Subdivision Works Certificate demonstrating all stormwater drainage from the site is fully managed for each development stage in accordance with Lithgow Development Control Plan 2021 including but not limited to stormwater discharge control and stormwater quality before discharging into a legal point of discharge, and will not cause adverse effects to neighbouring properties. Full details are to be included in the documentation for a Subdivision Works Certificate application.</p>
	Condition Reason: To ensure compliance with Council's Development Control Plan.
33.	<p><b>Soil Management</b> The Developer is to identify all locations and extents of any existing and/or proposed stockpiles of surplus virgin excavated natural material (VENM) resulting from previous or current proposed subdivision works. Full details, including associated ongoing environmental management measures, are to be included in the detailed design drawings provided to Council for a Subdivision Works Certificate application.</p>
	Condition Reason: To ensure compliance with Council's Development Control Plan.
34.	<p><b>Stormwater Management and Water Sensitive Urban Design (WSUD)</b> Stormwater Management and associated Water Sensitive Urban Design (WSUD) measures are to be designed and constructed in accordance with Lithgow Council's Development Control Plan 2021 and Standard Drawings that are current when making each application for Subdivision Works Certificate.</p>
	Condition Reason: To ensure compliance with Council's Development Control Plan.
35.	<p><b>Section 138 Requirements</b> Where works are proposed within the road reserve, the Developer must obtain approval from the Council (as the Roads Authority and/or as required under Section 138 of the <i>Roads Act 1993</i>) prior to the issue of the Subdivision Works Certificate. Works within the road reserve may include activities such as erect a structure, dig up or disturb the surface of a public road, remove or interfere with a structure, or any other activities as defined within the <i>Roads Act 1993</i>. The following details must be submitted to Council in order to obtain the Section 138 approval:</p> <ul style="list-style-type: none"> <li>• A copy of approved design plans related to the development and proposed works to be undertaken.</li> <li>• Traffic Control Plan (TCP) to provide protection for those within and adjacent to the work site, including the travelling and pedestrian public. The TCP must comply with the Roads and Traffic Authority's manual "Traffic Control at Work Sites". Warning and protective devices shall comply with the provisions of AS1742.3 - 2002 Traffic Control Devices for Works on Roads. The plan must be prepared and certified by a person holding the appropriate Roads and Traffic Authority accreditation, a copy of which is to be submitted with the plan.</li> <li>• Insurance details - Public Liability Insurance to an amount of \$20 million, to be held by applicant / contractor undertaking the works.</li> </ul>
	Condition Reason: To ensure compliance with Section 138 of the Roads Act 1993.
	<b>Road Naming</b>

36.	Prior to making an application for a Subdivision Works Certificate for each Stage the Developer is to submit to the Council and obtain approval for all proposed road names (in accordance with the Lithgow City Council's Road Naming Policy) within that Stage and the approved road names are to be shown on the submitted documentation accompanying the Subdivision Works Certificate.
	Condition Reason: To ensure compliance with Council's Road Naming Policy.
37.	<b>Street Signs</b> Street signs are required at all road junctions. Signs shall be purchased from Council. The location of proposed street signs is to be indicated on the Engineering Drawings submitted with the Subdivision Works Certificate.
	Condition Reason: To ensure compliance with Council's Engineering Guidelines.
38.	<b>Traffic Signage</b> 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 subdivision works certificate. The consent of Lithgow City Council's Executive Manager of Operations or appointed officer will be required prior to the installation of any traffic control devices on existing roads.
	Condition Reason: To ensure compliance with Council's Engineering Guidelines.
39.	<b>Land Management</b> All disturbed, regraded or exposed areas outside of development lots are to be stabilised and suitably revegetated. All revegetation is to be undertaken using native plants propagated from local native seed from on-site or a nearby seed source. Propagation material is to be sourced from areas to be cleared in preference to areas that will be retained as natural areas. Full details are to be included in the documentation for a Subdivision Works Certificate application.
	Condition Reason: To ensure minimal impact to the environment.
40.	<b>Landscape Plan Detail</b> Detailed Landscape Plans and Specifications is to be prepared for the Subdivision by a Landscape Architect or similar qualified professional practising at the membership level of Registered Landscape Architect of the Australian Institute of Landscape Architects and is also to comply with the following requirements: a) Existing trees on the site, which are to be retained, are to have no cut or fill under their canopy areas and the location of these trees is to be clearly identified on the Landscape Management Plan and Engineering Plans. b) Areas of restricted access and fence detail to be erected during construction and areas proposed for storage/stockpile of plant and materials are to be identified. c) Street tree species are to be agreed by the Council. d) All street trees are to be selected and certified by the supplier to comply with the current NATSPEC guide with respect to root development, height, trunk diameter branch structure and balance (refer to Specifying Trees, Construction Information Systems Australia PL, Clark, R 2003). e) For all internal Local roads street trees are to be a minimum 75 litre pot size, or as otherwise approved by Council, planted at a maximum spacing of 12m. All street trees are to be protected with tree guards to the Council's requirements. f) No turf is to be installed between the road and riparian zone. A continuous double line of Lomandra species is to be installed in lieu of weed control and territorial enforcement. g) Street tree locations are to be reviewed with the inclusion of a potential driveway to ensure the location of the street trees allows for driveway access to each lot. h) For all batters which will remain or adjoin public land; and i. More native species are included in the planting schedule. No single species to exceed 15% of the total species mix. No non-native species. ii. Type, diversity and density of native species to replicate the structure of adjacent Vegetation Types. iii. Taller longer-lived plants are required on the lower third of batters. iv. Lomandra to be limited to interfaces e.g. between turf and natives.

	<p>v. Measures to increase the resilience of riparian corridor for example retention of habitat logs; use of vines, midstory and longer-lived canopy species to out-compete weeds.</p> <p>vi. Refer to NSW RFS general terms of approval conditions and NSW RFS Planning for Bush Fire Protection 2019 guide for species selection within the riparian area.</p> <p>vii. Proposed street tree locations are to be reviewed with the inclusion of a potential driveway to ensure the location of street trees allows for driveway access to each lot.</p> <p>The detailed Landscape Plans and Specifications is to be provided with the Subdivision Works Certificate application.</p>
	Condition Reason: To ensure minimal impact to the environment.
41.	<p><b>Landscape Management Plan</b></p> <p>A landscaping management plan is to be submitted to Council as part of the Subdivision Works Certificate in accordance with Council's "Planted Species List" to be provided as required including street trees, preferably located centrally to lots and ensuring clearance from drainage and electrical services, among other services.</p> <p>Landscaping works for the subdivision site must include the substantial planting of locally endemic flora species consistent with the Plant Community Types (PCTs) identified for the site.</p> <p>All other street plantings should be native to the locality. The site is nearby a World Heritage national park as such an ecotone of continuation for species within the World Heritage area should be provided for species whose territories/home ranges extend beyond the boundaries of the national parks.</p> <p>Full details are to be included in the documentation for a Subdivision Works Certificate application.</p>
	Condition Reason: To ensure minimal impact to the environment.
42.	<p><b>Cut and Fill</b></p> <p>Areas of cut and fill and their respective volumes should be clearly shown on the detailed design drawings as part of the subdivision works Certificate, and appropriately managing for any compaction requirements and drainage impacts, with any proposed additional cut material to be subject to a Haulage Route plan under a future Section 138 Permit and/or ROL from TfNSW. Full details to be included in documentation for a Subdivision Works Certificate application.</p>
	Condition Reason: To ensure minimal impact to the environment.
43.	<p><b>Retaining Walls</b></p> <p>Detailed designs for all retaining walls to be provided as part of the Subdivision Works Certificate. Wall locations, sections and structural details (if required) are to be included. Proposed retaining wall locations shown on the provided plans and sections are included in step critical areas. All proposed Retaining wall materials to provide a minimum 50 year design life, but preferably 100 year design life and include suitable drainage conditions that prevent hydraulic pressure or blockage of backfill media. Full details to be included in documentation for a Subdivision Works Certificate application.</p>
	Condition Reason: To ensure minimal impact to the environment.
44.	<p><b>Services Infrastructure</b></p> <p>Water, electricity and gas installations are to comply with Section 4.1.3 of the NSW Rural Fire Service document 'Planning for Bushfire Protection 2006' (or as updated). Full details are to be included in documentation for a Subdivision Works Certificate application.</p>
	Condition Reason: To ensure compliance with the NSW Rural Fire Service Requirements.
45.	<p><b>Section 68 Approval – Water and Wastewater</b></p> <p>Prior to the issue of a Subdivision Works Certificate, an application under section 68 of the <i>Local Government Act 1993</i> shall be made to, and issued by, Lithgow City Council, for the following approvals:</p> <ul style="list-style-type: none"> <li>• The applicant will be required to submit a Section 68 application for water and sewer connection and construction.</li> <li>• The s68 application will require all hydraulic and construction plans of the development showing all infrastructure in water, sewer, and stormwater.</li> <li>• These plans will show position, size and material used for construction and include the location of all</li> </ul>

	<p>sewerage property connections and water connection points.</p> <ul style="list-style-type: none"> <li>• The plans will be required to show connection to Council's existing infrastructure and proposed connections to neighbouring lots or developments.</li> </ul>
	Condition Reason: To ensure compliance with Section 68 requirements of the Local Government Act 1993.
46.	<p><b>Section 68 -Stormwater Detail</b></p> <p>Prior to the issue of a Subdivision Works Certificate the person acting with this consent shall obtain approval under Section 68 of the Local Government Act 1993 for the carrying out of stormwater works.</p> <p>Documentary evidence is to be provided to the Principle Certifying Authority demonstrating that these approvals have been obtained prior to the issue of a Construction Certificate.</p> <p>The person acting with this consent shall ensure that mandatory stage inspections prescribed by the Section 68 Approval are carried out by Council Officers at the relevant stage of development.</p>
	Condition Reason: To ensure compliance with Section 68 requirements of the Local Government Act 1993.
47.	<p><b>Construction Loads and Detention Basins</b></p> <p>All stormwater detention basins should be designed with consideration of construction loads of sediment as temporary sediment control basins, maintained at all times, and modified to suit final construction design for detention function prior to issue of the Subdivision Certificate.</p>
	Condition Reason: To ensure minimal impact to the environment.
48.	<p><b>Ecosystem credit retirement conditions</b></p> <p>(a) Prior to issue of subdivision works certificate <b>the class and number of ecosystem credits</b> must be retired to offset the residual biodiversity impacts of the development.</p> <p>(b) The requirement to retire credits outlined in condition (a) may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of ecosystem credits, as calculated by the BAM Credit Calculator (BAM-C)<sup>1</sup>.</p> <p>(c) Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund in satisfaction of condition (a) requirements must be provided to the consent authority prior issue of subdivision works certificate.</p>
	Condition Reason: To ensure compliance with the Biodiversity Conservation Act 2016.

<b>BEFORE SUBDIVISION WORK COMMENCES</b>	
49.	<p><b>Commencement of Works Requirements</b></p> <p>Work on the subdivision shall not commence until:</p> <ul style="list-style-type: none"> <li>• a Subdivision Works Certificate has been issued;</li> <li>• a Principal Certifying Authority has been appointed for the project and</li> <li>• any other matters prescribed in the development consent for the subdivision and the Environmental Planning and Assessment Act and Regulation have been complied with.</li> </ul> <p>A Notice of Commencement of works is to be submitted to Lithgow City Council five (5) days prior to commencement of engineering works or clearing associated with the subdivision.</p>
	Condition Reason: To ensure compliance with the Environmental Planning and Assessment Act and Regulations.
50.	<p><b>Street Lighting</b></p> <p>A Street lighting is to be provided for all new and existing streets within the proposed subdivision to Lithgow City Council's standards.</p>
	Condition Reason: To ensure compliance with Council's Engineering Guidelines.
51.	<p><b>Works Signage</b></p> <p>A sign must be erected in a prominent position on any work site:</p>

	<p>a) stating that unauthorised entry to the work site is prohibited;</p> <p>b) showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at anytime for business purposes and outside working hours; and</p> <p>c) showing the name, address and telephone number of the Principal Certifying Authority for the work.</p> <p>The sign is to be maintained for the duration of building work, subdivision work or demolition work. The sign must be removed when the work has been completed.</p>
	<p>Condition Reason: To ensure compliance with the Environmental Planning and Assessment Regulation 2021.</p>
52.	<p><b>Site Specific Environmental Management Plan (SSEMPs)</b></p> <p>Site Specific Environmental Management Plans (SSEMPs) are to be prepared, such to be designed and implemented to manage all environmental aspects associated with the clearing, earthworks and construction works.</p> <p>A copy of each SSEMP is to be provided in .pdf format to the Principal Certifier and Council and the SSEMP is to be maintained on-site during all site works and be made available to Authorised Officers upon request. The SSEMP is to include but not be limited to:</p> <p>a) A statement of compliance together with detailed justification(s) for any diversions from the overarching Construction Environmental Management Plan that demonstrate how such diversions meet the stated objectives of the CEMP.</p> <p>b) A site management strategy, identifying and addressing issues such as environmental health and safety, site access and security, 'no-go' zones and traffic/pedestrian/cyclist management.</p> <p>c) A Construction Traffic Management Plan approved by Council.</p> <p>d) A soil and water management strategy, detailing erosion and sediment control, management of soil stockpiles, control and management of surface water and groundwater. Procedures should be included to ensure that all roads adjacent to the site are kept free and clear from mud and sediment.</p> <p>e) Procedures for managing complaints for government authorities and public.</p>
	<p>Condition Reason: To ensure minimal impact to the environment.</p>
53.	<p><b>Work Site Facilities Requirement</b></p> <p>Site Facilities required:</p> <p>a) If the development involves building work or demolition work, the work site must be fully enclosed by a temporary security fence (or hoarding) before work commences.</p> <p>b) A minimum width of 1.2m must be provided between the work site and the edge of the roadway so as to facilitate the safe movement of pedestrians.</p> <p>c) Any such hoarding or fence is to be removed when the work has been completed.</p> <p>d) A garbage receptacle fitted with a tight fitting lid for the reception of all food scraps and papers from the work site must be provided prior to building work commencing and must be maintained and serviced for the duration of the work.</p> <p>e) Toilet facilities must be provided on the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the work site.</p> <p>f) Each toilet provided must:</p> <ul style="list-style-type: none"> <li>• be a standard flushing toilet, connected to a public sewer, or</li> <li>• if connection to a public sewer is not available, to an on-site effluent disposal system approved by the council, or</li> <li>• an approved temporary chemical closet.</li> </ul> <p>g) The provision of toilet facilities must be completed before any other work is commenced.</p> <p>h) A person having the benefit of this certificate who causes an excavation that extends below the level of the base of the footings of a building on an adjoining allotment of land must at their own expense and where necessary:</p> <ul style="list-style-type: none"> <li>• protect and support the building from damage, and</li> <li>• If necessary, underpin and support the building in accordance with the details prepared by a professional engineer.</li> </ul>

	<p>i) A person having the benefit of this certificate who causes the excavation must, at least 7 days before commencing this work, give notice of intention to do so to the owner of the adjoining allotment of land and provide particulars of the proposed work.</p> <p>j) Erosion and sediment controls must be provided in accordance with the details shown on the approved plans, prior to the disturbance of any soil on the work site.</p>
	Condition Reason: To ensure minimal impact to the environment.
54.	<p><b>Damaged Council Property</b></p> <p>The developer shall bear the cost of all restoration works to Council property damaged during the course of this development. The applicant shall submit in writing and/or photographic record, of any existing damage to Council property before commencement of work.</p> <p>Note: This documentation will be used to resolve any dispute over damage to infrastructure. If no documentation is received prior to the commencement of work it will be assumed that the infrastructure was undamaged and the applicant will be required to restore all damage infrastructure at their expense.</p>
	Condition Reason: To ensure the development has no impact to Council's Assets.
55.	<p><b>Unexpected Finds Protocol</b></p> <p>A protocol is to be developed to mitigate any risk of potential harm due to unexpected finds or ACM discovered during development. This should include stop work and reporting actions and be developed in line with the Contaminated Land Act and associated legislation.</p>
	Condition Reason: To ensure compliance with the Contaminated Land Act.
56.	<p><b>Council Land and Aboriginal Objects</b></p> <p>No permanent keeping place or re-burial of Aboriginal objects is to occur on any land owned by Council or intended to be dedicated to Council.</p>
	Condition Reason: To ensure the development has minimal impact to the surrounding environment.
57.	<p><b>Road Authority Approval</b></p> <p>Written approval is to be obtained from the Road Authority for all proposed temporary changes to traffic conditions or traffic regulations on any existing Public Road as a result of the development. The Developer shall be responsible for all costs associated with any public notification and implementation of the proposed temporary changes.</p>
	Condition Reason: To ensure minimal impact to the environment.
58.	<p><b>AS3798-1996 Requirements</b></p> <p>Compaction of earthworks is to be carried out under Level 1 supervision as per AS 3798-1996 "Guidelines on earthworks for commercial and residential developments".</p>
	Condition Reason: To ensure minimal impact to the environment.
59.	<p><b>Surface Water Runoff Management</b></p> <p>Any alteration to natural surface levels on the site is to be undertaken in such a manner as to ensure that there is no increase in surface water runoff to adjoining properties or that runoff is impounded on adjoining properties, as a result of the development.</p>
	Condition Reason: To ensure minimal impact to the environment.
60.	<p><b>Erosion and Sediment Control Measures</b></p> <p>Erosion and sediment control measures are to be implemented prior to the commencement of works for each stage and be maintained during the period of construction in accordance with the details set out on the Erosion and Sediment Control Plan submitted with the application, and with the below requirements:</p> <p>a) control over discharge of stormwater and containment of run-off and pollutants leaving the site must be undertaken through the installation of erosion control devices such as catch drains, energy dissipaters, level spreaders and sediment control devices such as hay bale barriers, filter fences, filter dams and sediment basins; and</p> <p>b) controls are not to be removed until the site is stable with all bare areas supporting an established vegetative cover. Erosion and sediment control measures are to be designed in accordance with the</p>

	requirements of the Managing Urban Stormwater: Soils and Construction 4th Edition – Vol. 1 (the 'Blue Book') published by Landcom, 2004.
	Condition Reason: To ensure sediment laden runoff and site debris do not impact local stormwater systems and waterways.

<b>DURING SUBDIVISION WORKS</b>	
61.	<p><b>Engineering Inspections</b></p> <p>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 Executive Manager of Operations. Council shall inspect engineering works at the following stages as a minimum:</p> <ul style="list-style-type: none"> <li>• Following site regrading and shaping, and prior to installation of footway services;</li> <li>• Installation of erosion and sedimentation control measures;</li> <li>• Storm water drainage lines prior to backfill;</li> <li>• Water and sewer lines prior to backfill;</li> <li>• Testing of water and sewer lines;</li> <li>• Subgrade preparation, before placing pavement;</li> <li>• Establishment of line and level for kerb and gutter placement;</li> <li>• Completion of each pavement layer ready for proof roll testing;</li> <li>• Road pavement surfacing;</li> <li>• Completion of works.</li> </ul> <p>The developer or contractor shall give Council a minimum 48 hours' notice when requesting an inspection to ensure that development works are not delayed. The developer shall, if required by a Council Engineer, submit delivery docket for all materials used, and all material and performance test results obtained in the development.</p> <p>Condition Reason: To ensure compliance with Council's Engineering Guidelines.</p>
62.	<p><b>Aboriginal Objects</b></p> <p>During any excavation work, in the event that any Aboriginal objects are identified within the area of works, works within the immediate vicinity of the Aboriginal object should cease and Heritage NSW should be contacted so that appropriate management strategies can be identified.</p> <p>In the unlikely event that a potential burial site or potential human skeletal material is exposed, work in the vicinity of the remains is to halt immediately to allow assessment and management. If the remains are suspected to be human, it will be necessary to contact NSW Police, Heritage NSW and the Heritage Division to determine an appropriate course of action.</p> <p>Condition Reason: To ensure the development has minimal impact to the surrounding environment.</p>
63.	<p><b>Notification requirements for Aboriginal Objects</b></p> <p>If unanticipated suspected Aboriginal heritage objects are uncovered at any time throughout the life of the project, excavation or disturbance of the area is to stop immediately and Heritage NSW is to be notified in accordance with Section 89A of the National Parks and Wildlife Act 1974 (NPW Act). Aboriginal objects in NSW are protected under the NPW Act. Unless the objects are subject to a valid Aboriginal Heritage Impact Permit, work must not recommence until approval to do so has been provided by Heritage NSW.</p> <p>Condition Reason: To ensure the development has minimal impact to the surrounding environment.</p>
64.	<p><b>Approvals Available</b></p> <p>A copy of the Notice of Determination and relevant Subdivision Works Certificates, including associated approved plans, is to be kept on-site at all times during construction works.</p> <p>Condition Reason: To ensure compliance with the Environmental Planning and Assessment Act.</p>
65.	<p><b>Hours of Construction</b></p> <p>Construction Hours:</p> <p>a) Subject to this clause, building construction is to be carried out during the following hours:</p>

	<p>i. between Monday to Friday (inclusive)—7.00am to 6.00pm, ii. on a Saturday—8.00am to 1.00pm.</p> <p>b) Building construction must not be carried out on a Sunday or a public holidays.</p> <p>c) Demolition works and excavation works must only be carried out between Monday to Friday (inclusive) between 8.00am and 5.00pm.</p> <p>d) The builder and excavator must display, on-site, their 24 hour contact telephone numbers, which are to be clearly visible and legible from any public place adjoining the site.</p> <p>e) Construction noise shall be in accordance with the 'Noise Control Guidelines for Construction Noise Standards'.</p>
	Condition Reason: To ensure minimal impact to the environment.
66.	<p><b>Rock Breaking</b></p> <p>Mechanical rock breaking is to be confined to between 9.00 am to 3.30 pm Monday to Friday excluding any Public Holiday. Rock-breaking methods must not include blasting.</p>
	Condition Reason: To ensure minimal impact to the environment.
67.	<p><b>Dust and Air Quality Management</b></p> <p>Dust Emission and Air Quality:</p> <p>a) Materials must not be burnt on the site.</p> <p>b) Vehicles entering and leaving the site with soil or fill material must be covered.</p> <p>c) Dust suppression measures must be carried out to minimise wind-borne</p> <p>d) emissions in addition odour suppression measures must also be carried out where appropriate so as to prevent nuisance occurring at adjoining properties.</p>
	Condition Reason: To ensure minimal impact to the environment.
68.	<p><b>Storage of Building Materials</b></p> <p>Building materials and equipment must be stored wholly within the work site unless prior written approval has been obtained from Council. Equipment must not be operated on the footpath or roadway unless prior written approval has been obtained from Council.</p>
	Condition Reason: To ensure minimal impact to the environment.
69.	<p><b>Project Contact Details</b></p> <p>The project manager nominating a community contact person and advising adjoining owners and Council of the name of the nominated contact person, along with a contact telephone number. The contact person is to be available at all times for the duration of the construction work.</p>
	Condition Reason: To ensure minimal impact to the environment.
70.	<p><b>Earthworks, retaining walls and structural support</b></p> <p>a) Any earthworks (including any structural support or other related structure for the purposes of the development)—</p> <ul style="list-style-type: none"> <li>• must not cause a danger to life or property or damage to any adjoining building or structure on the lot or to any building or structure on any adjoining lot, and</li> <li>• must not redirect the flow of any surface or ground water or cause sediment to be transported onto an adjoining property, and</li> <li>• that is fill brought to the site—must contain only virgin excavated natural material (VENM) as defined in Part 3 of Schedule 1 to the <i>Protection of the Environment Operations Act 1997</i>, and</li> <li>• that is excavated soil to be removed from the site—must be disposed of in accordance with any requirements under the <i>Protection of the Environment Operations (Waste) Regulation 2005</i>.</li> </ul> <p>b) Any excavation must be carried out in accordance with Excavation Work: Code of Practice (ISBN 978-0-642-785442 [PDF] and ISBN 978-0-642-785459 [DOCX]), published in July 2012 by Safe Work Australia.</p> <p>c) All earthworks shall be undertaken in accordance with AS3798 and Lithgow City Council's Guidelines for Civil Engineering Design and Construction for Development".</p> <p>d) All earthworks are to be undertaken with the approved Geotechnical Report undertaken by Macquarie Geotech, dated 15 November 2023, specifically:</p>

	<p><b>a. Filling</b></p> <ul style="list-style-type: none"> <li>• Where filling is required, unsupported fill batters should be limited to a maximum height of 3m at 1V:2H. Filling to greater heights or steeper gradients than this should be further assessed by MG;</li> <li>• Prior to construction and placement of any fill, the proposed areas should be stripped to remove all vegetation, topsoil, uncontrolled fill, organic, root affected, oversize (material greater than 150 mm) or other potentially deleterious material;</li> <li>• Following stripping, the exposed subgrade materials should be proof rolled in the presence of a suitably qualified and experienced Geotechnical Engineer to identify any wet or excessively deflecting material;</li> <li>• Proof rolling should involve compacting the subgrade with a minimum 8-tonne non vibratory roller, trimming the rolled surface to level and clean finish; where there are areas indicating excessive deflection then these will require over-excavation and backfilling with an approved select material/engineered fill.</li> <li>• Where the ground slopes at more than 1V:10H (6°), the ground profile should be benched in 300mm vertical steps to create near-level platforms for filling. The platforms should be graded with a cross fall no steeper than 2% downslope to allow drainage of any infiltration into the fill and to prevent pooling of subsurface moisture.</li> <li>• Sub-soil drains should be considered where fill thickness exceed 1m;</li> <li>• Boxed-out excavations should be drained permanently to allow any infiltration from subsequent fill to escape the excavation profile.</li> <li>• If required, additional imported fill materials will need to be approved by MG prior to use.</li> <li>• Fill should be placed in layers not exceeding 200 mm loose thickness and compacted to at least 98% Standard Compaction;</li> <li>• Fill batters should be overfilled by at least 1 m and trimmed back to the design profile;</li> <li>• Earthworks should be supervised by a suitably qualified person and compaction levels checked by field density (Nuclear Densometer) testing. Level 1 earthworks inspection is recommended; and</li> <li>• Streams and gullies should be appropriately culverted through embankments and the embankments protected from scour.</li> </ul> <p><b>b. Cut</b> Where excavation is required, unsupported cut batters should be excavated to a maximum height of 3m at no steeper than 1V:1H or to a maximum height of 5 m at 1V:2H. Higher or steeper profiles should be further assessed by MG.</p> <p><b>c. Excavation</b> Excavation should be readily achieved by conventional excavators (say 20t or larger). For stability during construction we recommend that the excavations be battered at no steeper than 1V:1H to a maximum height of about 3m. It should be noted that no surcharges including the temporary stockpiling of materials should be placed within 3m of the edge of excavations or slopes.</p>
	Condition Reason: To ensure adequate earthworks are undertaken for the development.
71.	<p><b>Traffic Control Plan</b> 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.</p>
	Condition Reason: To ensure compliance with Council's Engineering requirements.
72.	<p><b>Public Utilities</b> The developer is responsible for all adjustments to and/or relocation of public utilities. Any necessary alterations are to be at the Developer's expense and to the requirements of the appropriate Authorities.</p>
	Condition Reason: To ensure minimal impact to the environment.

**BEFORE ISSUE OF A SUBDIVISION CERTIFICATE**

73.	<p><b>Landscape Practical Completion</b>  A Landscape Practical Completion Report is to be submitted to the Principal Certifier prior to achieving Practical Completion for the development. The report is to verify that all landscape works have been carried out in accordance with the comprehensive landscape design plan and specifications that were approved under the respective Subdivision Works Certificate and/or all works granted consent under section 138 of the Roads Act, 1993 and is to verify that an effective maintenance program has been commenced. Full details area to be included in the documentation prior to the subdivision certificate application.</p> <p>All landscaping is to be undertaken within the public reserve of proposed Lot 55 and Lot 56 prior to the land being dedicated to Council.</p>
Condition reason: To ensure compliance under Section 138 of the Roads Act 1993.	
74.	<p><b>Street Addresses</b>  Prior to making an application for a Subdivision Certificate for the Developer to obtain from Council the required street addresses and show such addresses on the respective Administration Sheet.</p>
Condition Reason: Condition Reason: To ensure the development complies with the NSW Address Policy.	
75.	<p><b>All Works Completed</b>  All subdivision works, road works granted consent under section 138 of the Roads Act 1993 and public utility installations are to be completed, prior to issue of the Subdivision Certificate.</p>
Condition reason: To ensure compliance under Section 138 of the Roads Act 1993.	
76.	<p><b>Repair of Damage</b>  The Developer making good any damage caused to a public road or associated structures, including drains and kerb and gutter, as well as to private property, and revegetating any disturbed areas resulting from the works.</p>
Condition Reason: To ensure minimal impact to the environment.	
77.	<p><b>Traffic Authority Local Committee</b>  Prior to issue of any Subdivision Certificate, the installation of any prescribed traffic control devices and traffic control facilities are required to be referred to and endorsed by Council's Traffic Authority Local Committee (TALC), and recommendation to Council for action. Approval can only be granted upon Council resolution.</p>
Condition Reason: To ensure minimal traffic impacts.	
78.	<p><b>Subdivision Certificate Application Requirements</b>  A Subdivision Certificate Application is to be submitted to the NSW Planning Portal, accompanied by the appropriate fee.</p> <p>The application is to be supported by, at a minimum, the following documentation, together with any other documentation required under the conditions of this consent:</p> <ol style="list-style-type: none"> <li>a) The plan of subdivision prepared by a Registered Surveyor.</li> <li>b) The instrument prepared under s88B of the Conveyancing Act,1919 as appropriate.</li> <li>c) A geotechnical assessment prepared by a suitably qualified geotechnical engineer that: <ol style="list-style-type: none"> <li>i. indicates any areas of potential slip or subsidence which may influence future road and building design requirements.</li> <li>ii. indicates the location, extent and suitability of any fill placed on the site.</li> <li>iii. provides a report on all earthworks carried out under Level 1 supervision as per AS3798-1996 'Guidelines on earthworks for commercial and residential developments'; and</li> <li>iv. provides testing results for each phase of construction in relation to earthworks and roadworks.</li> </ol> </li> </ol>
Condition Reason: To ensure minimal impact to the environment.	
79.	<p><b>Conveyancing Act, 1919 - Section 88B</b>  Prior to the issue of a Subdivision Certificate, the submission of a Section 88B Instrument in accordance with the Conveyancing Act 1919 that creates the following Easements, Restrictions and Positive Covenants:</p>

	<p>a) all stormwater drainage within privately owned land shall be covered by an easement to permit the lawful drainage of water, to the benefit of upstream users and/or Lithgow City Council. Note this does not apply to reserves.</p> <p>b) Easements for services in favour of the property serviced and /or the appropriate utility provider.</p> <p>c) Asset Protection Zones (APZ) in accordance with the requirements of the NSW Rural Fire Service General Terms of Approval.</p> <p>d) No coal burning appliances are to be installed on the residential allotments.</p> <p>e) Restriction on the use of land for all lots containing land exceeding 20% slope, that future development on the affected lots is to comply with the recommendations within the approved Geotechnical Report relating to steep slopes.</p> <p>Note:</p> <ul style="list-style-type: none"> <li>• Council in addition to the owner of any land benefited by the easement is to be a party whose consent is needed to release or vary easements or positive covenants.</li> <li>• Council advises that it will not withhold consent to release the Positive Covenants or Easements in respect of temporary cul-de-sac heads or turning facilities or APZ's subject to adequate alternate measures being provided in lieu.</li> </ul>
	Condition Reason: To comply with the Conveyancing Act 1919.
80.	<p><b>Surveyor's Certificate</b></p> <p>Prior to issue of any Subdivision Certificate, a Surveyor's Certificate certifying that all pipes and services are located wholly within the property or within appropriate easements and that no services encroach boundaries, private or public lands.</p>
	Condition Reason: To ensure that the development is adequately serviced.
81.	<p><b>Certificate of Works As Executed (WAE)</b></p> <p>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:</p> <ul style="list-style-type: none"> <li>• certification that all works have been completed generally in accordance with the approved plans and specification,</li> <li>• any departure from the approved plans,</li> <li>• any additional/deleted work,</li> <li>• the location of conduits, subsoil lines, stub mains and inter-allotment drainage lines,</li> <li>• pipeline long sections showing the constructed invert levels of each pipe at each pit and pipe dimensions,</li> <li>• details of overland flow provisions,</li> <li>• site regrading areas by new contours, and</li> <li>• all other details which have a bearing on the extent of works and their acceptance by Council</li> <li>• A copy of all documentation, reports and manuals, technical guidelines for handover of stormwater management facilities (bioretention basin/swell) to Lithgow City Council.</li> <li>• All required sediment and water management controls as outlined in the soil and water management plan are in place and functioning as intended,</li> <li>• Details of any incidents including Work Health and Safety incidents, public safety and complaints received are documents and provided to Council; and</li> <li>• Any required maintenance and security bonds have been received as detailed in the conditions.</li> </ul>
	Condition Reason: To ensure compliance with Council's Engineering requirements.
82.	<p><b>Maintenance Responsibilities</b></p> <p>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.</p>
	Condition Reason: To ensure compliance with Council's Engineering requirements.
83.	<p><b>Maintenance and Security</b></p> <p>The following stormwater asset maintenance and security bonds are required prior to asset handover:</p>

	<ul style="list-style-type: none"> <li>• Bioretention basins – A bond totaling the cost to complete the bio-retention basin construction (if not already constructed to bio-retention basin stage) and expected maintenance cost for the contracted maintenance period of 2 years is to be provided to Council prior to asset hand over.</li> <li>• Gross Pollutant Traps – a bond totaling the expected maintenance cost for 2 years is to be provided to Council prior to asset hand over.</li> </ul>
	Condition Reason: To ensure compliance with Council’s Engineering requirements.
84.	<p><b>Environmental Protection</b></p> <p>Prior to the issue of the Subdivision Certificate, Council is to be provided with a report from Central Tablelands Weeds Authority indicating:</p> <ul style="list-style-type: none"> <li>• Noxious plants are under adequate management; or</li> <li>• Noxious plant management has been undertaken and adequate control measures are in place; or</li> <li>• Noxious plants are not a concern for the property.</li> </ul>
	Condition Reason: To ensure minimal impact to the environment.
85.	<p><b>Utilities and Services</b></p> <p>Utility service connections are to be provided and completed to each lot in accordance with the relevant telecommunications, and electricity authorities requirements prior to the issue of a Subdivision Certificate. Written confirmation from each utility authority that services have been completed and provided to each lot is to be submitted to Council prior to the issue of a Subdivision Certificate.</p>
	Condition reason: To ensure compliance with relevant utility services and providers.
86.	<p><b>Water Management Act 2000 Compliance</b></p> <p>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 and .</p> <p>Please be advised that 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.</p> <p>The final compliance certificate must be submitted to the Certifying Authority prior to release of any linen plan for subdivision or Construction Certificate.</p>
	Condition Reason: To ensure compliance with the Water Management Act 2000.

**CONDITIONS TO BE SATISFIED DURING THE OPERATION AND USE OF THE DEVELOPMENT**

87.	<p><b>Drainage Requirements</b></p> <p>The registered title for all land proposed as Drainage Reserve, is to be transferred to Council, and at no cost to Council, within 28 days of Council providing written notice to the Developer that satisfactory completion vegetating the Drainage Reserves.</p>
	Condition Reason: To ensure minimal impact to the environment.
88.	<p><b>Landscape Establishment Report</b></p> <p>A six-monthly Landscape Establishment Report (.pdf format) is to be submitted to Council for the term of a twelve month landscape defect and maintenance period commencing from the date of issue of the Subdivision Certificate, verifying that satisfactory maintenance of the landscape works including street trees, re-vegetation and weeding, has been undertaken in accordance with the approved Landscape Plans and Vegetation Management Plan and any necessary rectification measures have been carried out to a high professional standard.</p>
	Condition Reason: To ensure minimal impact to the environment.

## PRESCRIBED CONDITIONS

<b>PRESCRIBED CONDITIONS</b> <i>Environmental Planning and Assessment Regulation 2021</i>	
89.	<p><b>Erection of signs</b></p> <p>(1) This section applies to a development consent for development involving building work, subdivision work or demolition work.</p> <p>(2) It is a condition of the development consent that a sign must be erected in a prominent position on a site on which building work, subdivision work or demolition work is being carried out—</p> <ul style="list-style-type: none"> <li>(i) showing the name, address and telephone number of the principal certifier for the work, and</li> <li>(ii) showing the name of the principal contractor, if any, for the building work and a telephone number on which the principal contractor may be contacted outside working hours, and</li> <li>(iii) stating that unauthorised entry to the work site is prohibited.</li> </ul> <p>(3) The sign must be—</p> <ul style="list-style-type: none"> <li>(i) maintained while the building work, subdivision work or demolition work is being carried out, and</li> <li>(ii) removed when the work has been completed.</li> </ul> <p>(4) This section does not apply in relation to—</p> <ul style="list-style-type: none"> <li>(i) building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or</li> <li>(ii) Crown building work certified to comply with the Building Code of Australia under the Act, Part 6.</li> </ul>
Condition reason: Prescribed condition (Environmental Planning and Assessment Regulation 2021).	
90.	<p><b>Shoring and adequacy of adjoining property</b></p> <p>(1) This section applies to a development consent for development that involves excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land, including a structure or work in a road or rail corridor.</p> <p>(2) It is a condition of the development consent that the person having the benefit of the development consent must, at the person's own expense—</p> <ul style="list-style-type: none"> <li>(i) protect and support the building, structure or work on adjoining land from possible damage from the excavation, and</li> <li>(ii) if necessary, underpin the building, structure or work on adjoining land to prevent damage from the excavation.</li> </ul> <p>(3) This section does not apply if—</p> <ul style="list-style-type: none"> <li>(i) the person having the benefit of the development consent owns the adjoining land, or</li> <li>(ii) the owner of the adjoining land gives written consent to the condition not applying.</li> </ul>
Condition reason: Prescribed condition (Environmental Planning and Assessment Regulation 2021).	

### ***General advisory notes***

This consent contains the conditions imposed by the consent authority which are to be complied with when carrying out the approved development. However, this consent is not an exhaustive list of all obligations which may relate to the carrying out of the development under the EP&A Act, EP&A Regulation and other legislation.

The approved development must be carried out in accordance with the conditions of this consent. It is an offence under the EP&A Act to carry out development that is not in accordance with this consent.



## Schedule B- General Terms of Approval Rural Fire Service

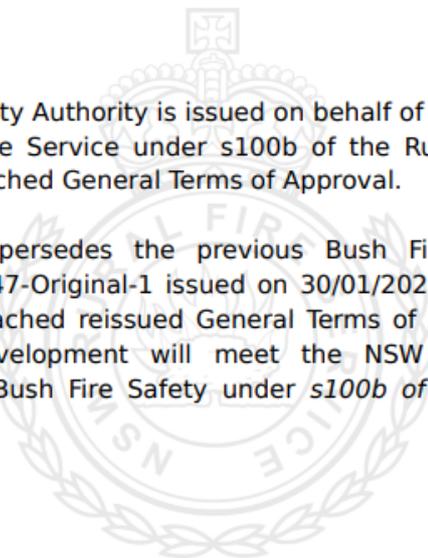


# BUSH FIRE SAFETY AUTHORITY

Subdivision - Subdivision  
19 Barton Avenue Wallerawang NSW 2845, 1//DP1253903  
RFS Reference: DA20221214012247-CL55-1  
Your Reference: (CNR-49583) DA226/22

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 DA20221214012247-Original-1 issued on 30/01/2023 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*.



**Adam Small**

Manager Planning & Environment Services  
Built & Natural Environment

Wednesday 31 July 2024

