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## SECTION 4.15 EVALUATION

Environmental Planning and Assessment Act 1979 (as amended)

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|------------------------------------|--|
| <b>Development Application No.</b> | DA142/24 (PAN- 478403)   |
| <b>Subject Site</b>                | Lot 53 DP 755769 and Lot 8 DP 1304112, 38 Williwa Street, Portland   |
| <b>Proposal</b>                    | Demolition of shed and subdivision creating 34 residential lots, 4 park lots, 3 large residential lots for future development and 2 residue lots |
| <b>Zoning</b>                      | MU1 Mixed Use, R1 General Residential and RE2 Private Recreation in accordance Lithgow Local Environmental Plan 2014 (LLEP)                      |
| <b>Permissibility</b>              | Subdivision is permitted with consent pursuant to clause 2.6 of LLEP.  |
| <b>Cost of Development</b>         | \$6,038,855.59   |
| <b>Applicant</b>                   | Sedrick Dahdah   |
| <b>Owner</b>                       | The Foundations Portland Pty Ltd   |
| <b>Notification</b>                | 22 November 2024 to 13 January 2025 for 28 days as per the Lithgow Community Participation Plan  |
| <b>Submissions</b>                 | Nil.   |
| <b>Variations</b>                  | Nil.   |
| <b>Site Inspection</b>             | 28 February 2025   |
| <b>Responsible Officer</b>         | Mark Hitchenson, Navigate Planning   |
| <b>Recommendation</b>              | Approval subject to attached conditions  |

### **Executive Summary**

Objective of Report: To assess and recommend determination of DA142/24 with recommendation for approval subject to conditions.

The subject Development Application was lodged with Council on 14 October 2024, seeking consent for a proposed subdivision of land to create 34 residential lots, 4 park lots, 3 large residential lots for future development and 2 residue lots at 38 Williwa Street, Portland. The proposal is stage 2 of the Foundations Portland subdivision.

Pursuant to the Lithgow Community Participation Plan, neighbour notification was undertaken from 22 November 2024 to 13 January 2025 for a period of 28 days. During notification no submissions were received.

### **Description of Site and Surrounds**

The subject site is formally known as Lot 53 DP 755769 and Lot 8 DP 1304112, 38 Williwa Street, Portland.

The subject land is part of The Foundations Portland subdivision which has been through a master planning and Development Control Plan process. This subdivision is Stage 2 of the overall development. Much of the property is currently vacant, however some existing heritage and non-heritage buildings are located on the site.

The property currently has frontage and access to Williwa Street. A new access point at the intersection of Williwa and Cullen Streets is proposed.

A number of large water bodies are located on the site.

Adjoining and adjacent properties consists of a mix of cleared land, bushland, historic residential properties and commercial land.



Figure 1: Location of the Proposed Development

### **Proposed Development**

Council is in receipt of Development Application No. DA142/24 seeking consent for a proposed subdivision of land to create 34 residential lots, 4 park lots, 3 large lots for future residential development and 2 residue lots at 38 Williwa Street, Portland. The proposal is stage 2 of the Foundations Portland subdivision.

The proposal is generally consistent with the master plan for the area, as shown by Figure 2 of the DCP for the site below:

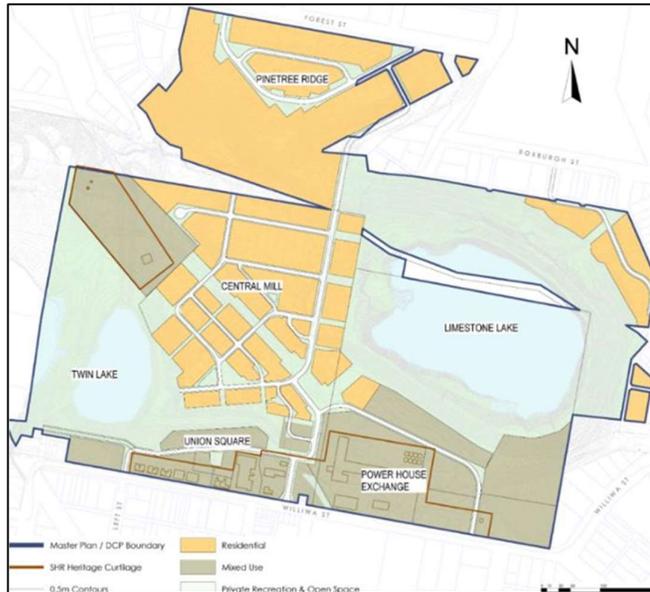


Figure 2: Figure 2 of DCP – Master Plan

The proposal is also consistent with the staging plan, as shown by Figure 6 in the DCP below:

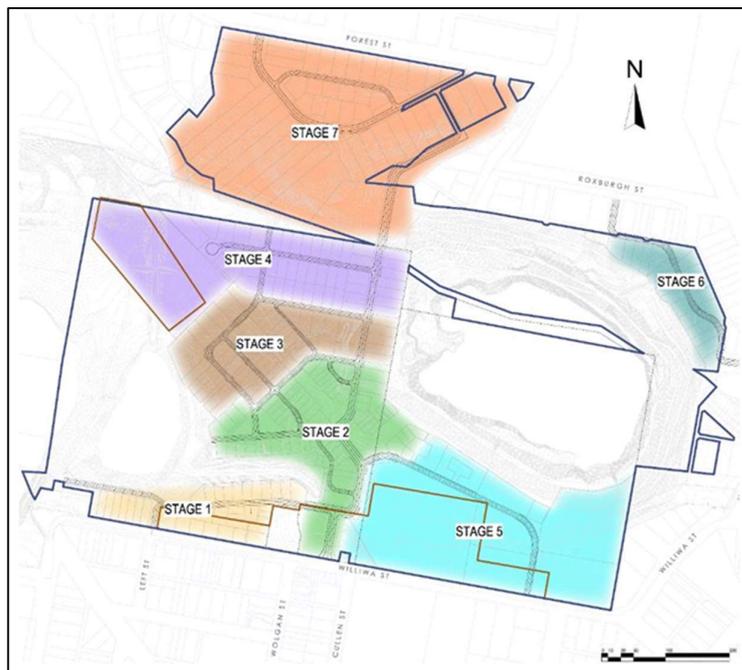


Figure 3: Figure 6 of DCP – Indicative Staging Plan

The proposed subdivision plan is provided below:



Figure 4: Proposed Subdivision Plan

In addition to the subdivision, the proposal involves the following works:

- Demolition of a storage shed.
- Reconstruction of an existing open drainage channel from Williwa Street to Mill Pond.
- Construction of a stepped weir at Mill Pond's northern outlet to the Limestone Creek channel.
- Construction of new roads, including a new intersection to Williwa Street.
- Street tree planting and landscaping within open space areas.
- New water, sewer, electricity and telecommunication connections to each lot.
- New stormwater infrastructure.
- Relocation of a power pole near the entrance road at Williwa Street.
- Clearing of a small area of vegetation.

A Voluntary Planning Agreement is proposed for the development. The applicant has provided a Letter of Offer which is considered acceptable and consistent with other similar planning agreements agreed to by Council. A standard condition is recommended to require the applicant to enter into a planning agreement with Council prior to the issue of a subdivision certificate.

## **Referrals**

### **Internal Referrals**

| <b>Branch</b>             | <b>Comment</b>  |
|---------------------------|---|
| Infrastructure Department | Referred. Recommended conditions of consent have been included in Schedule A. |
| Water and Sewer           | Referred. Recommended conditions of consent have been included in Schedule A. |

### **External Referrals**

| <b>Agency</b> | <b>Comment</b>  |
|---------------|---|
| DPE-Water     | Referred – General Terms of Approval Issued. A condition requiring a Controlled activity Approval under the Water Management Act 2000 to be obtained prior to the commencement of works is recommended. |

|                          |   |
|--------------------------|---|
| Rural Fire Service       | Referred – General Terms of Approved Issued. The conditions have been included in Schedule A.   |
| Subsidence Advisory      | NA.   |
| WaterNSW                 | NA – the property is not located within the Sydney Water Catchment area.  |
| Endeavour Energy         | Referred- No objections raised, conditions provided. Appropriate Advisory Notes have been included I Schedule 1.<br>Endeavour Energy have also advised that there is no objection to the relocation of a power pole subject to application being made and approved.   |
| Transport for NSW        | Referred - TfNSW has reviewed the information and is generally supportive of the proposed development provided the advice in Attachment 1 is considered in Council's assessment and determination.<br><i>" TfNSW reiterates comments provided on 30 July 2024 to Department of Planning, Housing and Infrastructure in response to notification of a contributions framework for the URA, including the need to assess the distribution of traffic generated by the URA and the impacts on affected classified road intersections as well as incorporation of relevant data into an extended citywide strategic traffic model. Such analysis and assessment will assist Council in establishing anticipated demand and planning for the timely delivery of supporting road infrastructure."</i> |
| DPE - Heritage           | Referred – General Terms of Approved Issued. However, two elements of the proposal were not approved, being the subdivision of proposed Lots 38 and 39 and any landscaping works, clearing of vegetation or removal of the memorial in proposed Lot 39. A condition to this effect is recommended. Further a condition requiring a S60 approval under the Heritage Act 1977 is recommended.   |
| NSW Department of Health | Referred – A number of recommendations relating to healthy places have been made. These are addressed elsewhere in this report.   |

### **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 (EP&A Act) 1979.

### **State Environmental Planning Policies**

Section 4.15(1)(a)(i) of the EP&A Act requires the consent authority to consider the provisions of environmental planning instruments (EPIs), which includes State Environmental Planning Policies (SEPPs). SEPPs applicable to this assessment are addressed in the following sections:

- Conveyancing Act 1919
- Biodiversity Conservation Act 2016,
- State Environmental Planning Policy (Biodiversity and Conservation) 2021,
- State Environmental Planning Policy (Resilience and Hazards) 2021,
- State Environmental Planning Policy (Transport and Infrastructure) 2021,
- Lithgow Local Environmental Plan (LEP) 2014,
- Lithgow Development Control Plan (DCP) 2021.

### ***Conveyancing Act 1919***

There are no easements or other restrictions on title in relation to the area of the proposed subdivision.

**Roads Act 1993**

The proposal involves the provision of a new road connecting to a classified road, being Williwa Street. The development application was referred to Transport for NSW for concurrence under S138 of the Roads Act 1993.

TfNSW reviewed the information and is generally supportive of the proposed development provided the advice in Attachment 1 is considered in Council’s assessment and determination.

Specifically, Transport for NSW has recommended Council consider *"the need to assess the distribution of traffic generated by the URA and the impacts on affected classified road intersections as well as incorporation of relevant data into an extended citywide strategic traffic model. Such analysis and assessment will assist Council in establishing anticipated demand and planning for the timely delivery of supporting road infrastructure."*

The above recommendation is a separate matter for Council to consider and does not prevent the determination of this development application.

**Biodiversity Conservation Act 2016**

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 small area of regrowth vegetation is proposed to be removed to facilitate the development. The extent of clearing does not exceed the Biodiversity Offset Scheme threshold and is not located in an area mapped as having biodiversity values.

It is considered that the development would have no significant impact on biodiversity and is not likely to affect threatened species or ecological communities.

The Biodiversity Offset Scheme (BOS) Entry Threshold Map is shown below:

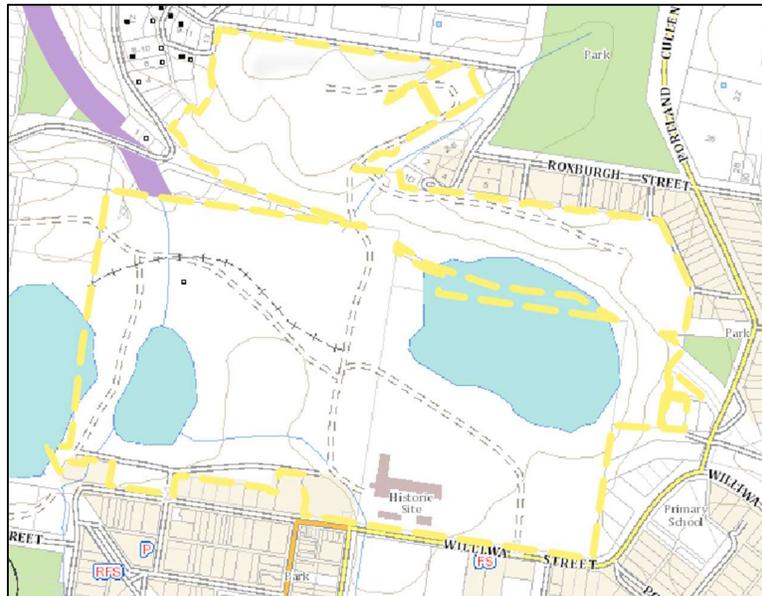


Figure 5: Biodiversity Values Map

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

| Chapter 2 – Vegetation in Non-Rural Areas       |         |
|---|---------|
| Relevant Provisions                             | Comment |
| Part 2.2 Clearing vegetation in non-rural areas |         |
| 2.6 Clearing that requires permit or approval   |         |

| <b>Chapter 2 – Vegetation in Non-Rural Areas</b>  |   |
|---|---|
| <b>Relevant Provisions</b>  | <b>Comment</b>  |
| (1) A person must not clear vegetation in a non-rural area of the State to which Part 2.3 applies without the authority conferred by a permit granted by the council under that Part.   | Development consent is sought as part of this development application for the clearing of vegetation. |
| (2) A person must not clear native vegetation in a non-rural area of the State that exceeds the biodiversity offsets scheme threshold without the authority conferred by an approval granted by the Native Vegetation Panel under Part 2.4. | The extent of clearing does not exceed the Biodiversity Offset Scheme threshold.                      |

| <b>Chapter 4 – Koala Habitat Protection 2021</b>   |  |
|--|--|
| <b>Relevant Provisions</b>   | <b>Comment</b>   |
| <b>Part 4.1 Preliminary</b>  |  |
| <b>4.4 Land to which Chapter applies</b>   |  |
| (1) This Chapter applies to each local government area listed in Schedule 2.   | The City of Lithgow is specified in Schedule 2 and is within the Central and Southern Tablelands Koala Management Area.  |
| <b>Part 4.2 Development control of koala habitats</b>  |  |
| <b>4.8 Development assessment process – approved koala plan of management</b>  |  |
| (1) This section applies to land to which this Chapter applies and to which an approved koala plan of management applies.  | Not applicable.  |
| <b>4.9 Development assessment process—no approved koala plan of management for land</b>  |  |
| (1) This section applies to land to which this Chapter applies if the land—<br>(a) has an area of at least 1 hectare (including adjoining land within the same ownership), and<br>(b) does not have an approved koala plan of management applying to the land. | The subject and is more than 1ha in size.  |
| (2) Before a council may grant consent to a development application for consent to carry out development on the land, the council must assess whether the development is likely to have any impact on koalas or koala habitat.                                 | Given that the proposed development only involves the clearing of a small area of regrowth, it is considered koala habitat will not be impacted or impede movement between koala habitats. Because of this, the proposal is categorised as Tier 1 development having low impact under the Koala Habitat Protection Guidelines and development consent can be granted in accordance with this clause. |

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

| <b>Chapter 4 Remediation of Land</b>   |   |
|--|---|
| <b>Relevant Provisions</b>   | <b>Comment</b>  |
| <b>4.6 Contamination and remediation to be considered in determining development application</b> |   |
| (1) A consent authority must not consent to the carrying out of any development on land unless—  | A Land-use Suitability Evaluation report was submitted with the development application. The report concludes that, "based on the available data and site observations, the |

| <b>Chapter 4 Remediation of Land</b>  |   |
|---|---|
| <b>Relevant Provisions</b>  | <b>Comment</b>  |
| <p>(a) it has considered whether the land is contaminated, and,</p> <p>(b) 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, and</p> <p>(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.</p> | <p>areas of the former Portland Cement Works, proposed or residential development are considered suitable for the intended land use as defined by NEPM, 2013”.</p> <p>It is considered that Council can be satisfied that the site is suitable for the proposed use. No remediation works are required.</p> |

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

| <b>Chapter 2 Infrastructure</b>  |   |
|--|---|
| <b>Relevant Provisions</b>   | <b>Comment</b>  |
| <b>Subdivision 2 Development likely to affect an electricity transmission or distribution network</b>  |   |
| <b>2.48 Determination of development applications—other development</b>  |   |
| <p>(1) This section applies to a development application (or an application for modification of a consent) for development comprising or involving any of the following—</p> <p>(a) the penetration of ground within 2m of an underground electricity power line or an electricity distribution pole or within 10m of any part of an electricity tower,</p> <p>(b) development carried out—</p> <p>(i) within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists), or</p> <p>(ii) immediately adjacent to an electricity substation, or</p> <p>(iii) within 5m of an exposed overhead electricity power line,</p> | <p>The development application was referred to Endeavour Energy who raised no objection to the development subject to conditions.</p>   |
| <b>2.119 Development with frontage to classified road</b>  |   |
| <p>(2) The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—</p> <p>(a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and</p> <p>(b) the safety, efficiency and ongoing operation of the classified road will not be</p>  | <p>The proposal adjoins a classified road, being Williwa Street. The proposed development seeks to connect a new road to Williwa Street at the intersection of Cullen Street. This is generally consistent with the Master Plan for the development.</p> <p>It is considered that the proposal will not detrimentally affect the safety, efficiency and ongoing operation of the classified road.</p> |

| <b>Chapter 2 Infrastructure</b>  |  |
|--|--|
| <b>Relevant Provisions</b>   | <b>Comment</b>   |
| <p>adversely affected by the development as a result of—</p> <p>(i) the design of the vehicular access to the land, or</p> <p>(ii) the emission of smoke or dust from the development, or</p> <p>(iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and</p> <p>(c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.</p> | <p>The proposed residential lots have a large setback to Williwa Street and will not be unreasonably affected by vehicle noise or emissions.</p> |
| <b>2.122 Traffic-generating development</b>  |  |
| <p>(1) This section applies to development specified in Column 1 of the Table to Schedule 3 that involves—</p> <p>(a) new premises of the relevant size or capacity, or</p> <p>(b) an enlargement or extension of existing premises, being an alteration or addition of the relevant size or capacity.</p>   | <p>The proposed development does not meet the criteria for traffic generating development in Schedule 3 of the SEPP.</p>                         |

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

| <b>Clause 1.2 Aims of Plan</b>   |  |
|--|--|
| <b>Objective</b>   | <b>Comment</b>   |
| <p>(aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,</p>   | <p>Complies – the proposed subdivision retains the MU1 zone for the continuation and enhancement of arts and cultural activities associated with the heritage items on the site.</p> |
| <p>(a) to encourage sustainable and planned development that complements the unique character and amenity of Lithgow and enhances its towns, villages and rural areas,</p>   | <p>Complies – the proposed development is generally consistent with the Master Plan for the site.</p>  |
| <p>(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,</p> | <p>Complies – the proposed development provides for a mix of housing developments in a manner generally consistent with the Master Plan for the site.</p>                            |
| <p>(c) to manage, facilitate and encourage sustainable growth and development that—</p>  | <p>Refer to below comments.</p>  |
| <p>(i) promotes the efficient and effective delivery of utilities, infrastructure and service and minimises</p>  | <p>Complies – the proposed development is considered to appropriately manage the</p>   |

|  |  |
|--|--|
| long-term costs to government, authorities and the community, and  | 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 a residential subdivision.  |
| (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 – given the proposed development is generally consistent with the Master Plan for the site, it 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 proposed development provides for a mix of housing developments in a manner generally consistent with the Master Plan for the site.   |
| (v) preserves and protects land that has been identified for future long term urban development from inappropriate fragmentation and development, and  | Not applicable – the land is being developed in a manner generally consistent with the Master Plan for the site.   |
| (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 – the location of the proposed development does not contain areas of important biodiversity or environmental sensitivity.   |
| (vii) protects and enhances places and items of environmental, archaeological, cultural or heritage significance, including Aboriginal relics and places, and  | Complies – the proposed development ensures the ongoing protection of items of environmental heritage on the site. The site has been extensively disturbed, and it is unlikely to contain Aboriginal relics. |
| (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 development will have no impact on drinking and environmental water catchments.   |
| (ix) strengthens and promotes employment land opportunities and appropriate tourism development and growth, and  | Complies – the development maintains the area of MU1 zoning which facilitates employment and tourism opportunities.  |
| (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.   |

Zone of Land MU1 Mixed Use, R1 General Residential and RE2 Private Recreation

Permissibility Subdivision is permitted with consent pursuant to clause 2.6 of LEP 2014.

Zone Objectives

| <b>Objective</b>            | <b>Comment</b> |
|-----------------------------|----------------|
| <b><i>MU1 Mixed Use</i></b> |                |

| <b>Objective</b>   | <b>Comment</b>  |
|--|---|
| <ul style="list-style-type: none"> <li><i>To encourage a diversity of business, retail, office and light industrial land uses that generate employment opportunities.</i></li> </ul>   | The proposed subdivision ensures the MU1 zoned portion of the site is not developed for residential purposes and will remain available for a range of other uses.   |
| <ul style="list-style-type: none"> <li><i>To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.</i></li> </ul> | The only part of the development that crosses the MU1 zoned part of the site is the new entrance road. The location of the new road will provide open views to the heritage items in the MU1 zoned area and will also provide pedestrian access between the development and the Portland Town Centre. |
| <ul style="list-style-type: none"> <li><i>To minimise conflict between land uses within this zone and land uses within adjoining zones.</i></li> </ul>   | The proposal does not result in conflicts between uses in the MU1 zone and the adjoining R1 and RE2 zones.  |
| <ul style="list-style-type: none"> <li><i>To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.</i></li> </ul>  | The proposed subdivision ensures the MU1 zoned portion of the site is not developed for residential purposes and will remain available for a range of other uses.   |
| <ul style="list-style-type: none"> <li><i>To promote development that does not detract from the role of the town centre core commercial precincts.</i></li> </ul>  | The proposal does not involve development of the MU1 zoned land other than an access road.  |
| <ul style="list-style-type: none"> <li><i>To promote the retention and reuse of heritage items and the retention of established buildings that contribute positively to the heritage and cultural values of the area.</i></li> </ul>               | The proposed subdivision retains the MU1 zoned area for retention and re-use of heritage items on the site.   |
| <ul style="list-style-type: none"> <li><i>To maintain or improve the water quality of receiving water catchments.</i></li> </ul>   | The proposed development is accompanied by a Stormwater Management Plan that demonstrates the proposal will maintain or improve water quality.  |
| <b><i>R1 General Residential</i></b>   |   |
| <ul style="list-style-type: none"> <li><i>To provide for the housing needs of the community.</i></li> </ul>  | The proposed subdivision provides a mix of residential lot sizes to provide for the housing needs of the community.   |
| <ul style="list-style-type: none"> <li><i>To provide for a variety of housing types and densities.</i></li> </ul>  | The proposed subdivision provides a mix of residential lot sizes to provide for a variety of housing types and densities.   |
| <ul style="list-style-type: none"> <li><i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i></li> </ul>  | The proposed subdivision includes a number of open space areas to meet the needs of residents. The site is in close proximity to the Portland Town Centre that provides services to meet the day to day needs of residents.   |
| <ul style="list-style-type: none"> <li><i>To maintain or improve the water quality of receiving water catchments.</i></li> </ul>   | The proposed development is accompanied by a Stormwater Management Plan that demonstrates the proposal will maintain or improve water quality.  |
| <b><i>RE2 Private Recreation</i></b>   |   |
| <ul style="list-style-type: none"> <li><i>To enable land to be used for private open space or recreational purposes.</i></li> </ul>  | The proposed subdivision provides suitable land for open space and recreation purposes.   |
| <ul style="list-style-type: none"> <li><i>To provide a range of recreational settings and activities and compatible land uses.</i></li> </ul>  | The proposed subdivision, along with the remainder of the development as indicated  |

| Objective   | Comment  |
|---|--|
|   | by the Master Plan will provide a range of recreational settings and activities.   |
| <ul style="list-style-type: none"> <li>To protect and enhance the natural environment for recreational purposes.</li> </ul> | The proposed subdivision is not located on land with significant natural features. Natural features on other parts of the development, as indicated in the Master Plan will be protected and enhanced. |
| <ul style="list-style-type: none"> <li>To maintain or improve the water quality of receiving water catchments.</li> </ul>   | The proposed development is accompanied by a Stormwater Management Plan that demonstrates the proposal will maintain or improve water quality.   |

| LEP Clauses                                       |   |  |
|---|---|--|
| Relevant Provisions                               |   | Comment  |
| <b>Part 2 Permitted or prohibited development</b> |   |  |
| 2.3   | Zone objectives and Land Use Table            | Complies – subdivision is permitted with consent in the MU1, R1 and RE2 zones; and the development is in keeping with the objectives of the zone.  |
| 2.4   | Unzoned land                                  | Not applicable.  |
| 2.5   | Additional permitted uses for particular land | Not applicable.  |
| 2.6   | Subdivision – consent required                | This development application is for subdivision of land.   |
| 2.7   | Demolition – consent required                 | Demolition of an existing shed is proposed. Appropriate conditions regarding demolition are recommended.   |
| 2.8   | Temporary use of land                         | Not applicable – temporary use of land not proposed.   |
| <b>Part 4 Principal development standards</b>     |   |  |
| 4.1   | Minimum subdivision lot size                  | There is no minimum lot size for the land.   |
| 4.2   | Rural subdivision                             | Not applicable.  |
| 4.3   | Height of buildings                           | Not adopted.   |
| 4.4   | Floor space ratio                             | Not adopted.   |
| 4.6   | Exceptions to development standards           | No exceptions to the development standards have been applied for as part of this Development Application.  |
| <b>Part 5 Miscellaneous provisions</b>            |   |  |
| 5.3   | Development near zone boundaries              | The proposed subdivision results in some minor zoning anomalies where some lots to be created will contain two zones, principally being R1 and RE2. A separate process will be undertaken to resolve these zoning anomalies, but in the meantime, this clause allows for development across zone boundaries where the development is consistent with the objectives of both zones. Given the minor nature of the zoning anomalies, it is considered that any future development across zone boundaries, if required, can satisfy the objectives of both zones. |
| 5.10  | Heritage conservation                         | A Heritage Impact Statement was submitted with the Development Application. The development application was referred to Heritage NSW who provided General Terms of Approval subject to no subdivision or landscape works within proposed Lots 38 and 39. A condition to this effect is recommended.<br><br>The proposed subdivision layout is consistent with the Master Plan and provides a visual link between the Powerhouse buildings and the kilns. No lots for future buildings are proposed within the State Heritage Curtilage                         |

| LEP Clauses                               |   |  |
|---|---|--|
| Relevant Provisions                       | Comment   |  |
|   |   | Boundary. The proposal is considered to be consistent with the Conservation Management Plan for the site.  |
| 5.21                                      | Flood planning  | <p>A Stormwater Management Plan was submitted with the development application. The plan includes the following map showing the 1% AEP flood level from the upper catchment as it crosses the site.</p> <p>The 1%AEP flood level does not impact on any of the proposed residential lots.</p>  |
| <b>Part 6 Urban Release areas</b>         |   |  |
| 6.1                                       | Arrangements for designated State public infrastructure | The Department of Planning and Environment has provided a Satisfactory Arrangements Certificate for the development application.   |
| 6.2                                       | Public utility infrastructure                           | Conditions are recommended in relation to the provision of public utility infrastructure to the proposed lots.   |
| 6.3                                       | Development control plan                                | A Development Control Plan has been prepared for the site.   |
| <b>Part 7 Additional local provisions</b> |   |  |
| 7.1                                       | Earthworks  | The proposal will require bulk earthworks to create an appropriate final landform for the subdivision. Across the site, the extent of cut and fill is generally limited to less than 1m, however there are small areas where cut or fill of up to 3.075m is proposed. A bulk earthworks plan has been submitted with the development application. The plan demonstrates that the development will have no adverse impacts on drainage patterns or soil stability. A condition is recommended regarding uncovering Aboriginal objects and a condition requiring all fill to be certified VENM is recommended. No significant retaining walls are proposed. The site is not located on steep or unstable land. |
| 7.3                                       | Stormwater management                                   | <p>A Stormwater Management Plan has been provided with the development application. The plan shows stormwater being collected via drainage pits and pipes with discharge to residue lot 44 in the area of the future Stage 3, towards Mill Pond.</p> <p>A Stormwater Management Report has also been submitted with the development application. The report recommends stormwater quality measures including (future) residential rainwater tanks, gross pollutant traps and a 200m<sup>2</sup> bioretention area. The bioretention area is shown on the SMP in Stage 3 of the development. Water quality modelling shows that in the post development</p>   |

| <b>LEP Clauses</b>         |   |  |
|----------------------------|---|--|
| <b>Relevant Provisions</b> |   | <b>Comment</b>   |
|                            |   | <p>case the pollutant loads are less than those under existing site conditions and therefore meet the requirement to have a Neutral or Beneficial Effect (NorBE) on water quality.</p> <p>The existing Mill Pond is designated as the on-site detention area for the development. The surface area of Mill Pond is approximately 2.0ha. Therefore, a small increase in water level has the potential to generate a significant volume of storage. Detention storage within the Mill Pond will be achieved via construction of a stepped weir at the Pond's northern outlet to the Limestone Creek channel. OSD modelling confirms that the proposed OSD measures reduce flows from the development to no greater than pre-development conditions for a range of storm events, up to and including the 1% AEP, in accordance with Council's requirements.</p> |
| 7.4                        | Terrestrial biodiversity                    | Not applicable – the development area is not mapped as containing terrestrial biodiversity.  |
| 7.5                        | Groundwater vulnerability                   | The subject land is mapped as groundwater vulnerable on the Environmentally Sensitive Areas – Water Overlay Map. The proposal will have no effect on groundwater vulnerability.  |
| 7.6                        | Riparian land and watercourses              | <p>Not applicable – the land is not mapped as containing riparian areas or watercourses.</p> <p>However, a watercourse is mapped on the hydroline spatial data and this watercourse crosses the development area. The application was referred to the Department of Planning and Environment – Water who issued General Terms of Approval.</p>   |
| 7.7                        | Sensitive lands                             | A small part of the site is mapped as being sensitive land. However, the proposed development area is well away from the mapped area. The proposal will have no effect on sensitive lands.   |
| 7.8                        | Development within a designated buffer area | Not applicable.  |
| 7.10                       | Essential services                          | Essential services will be provided to all residential lots. Conditions regarding provision of water, sewer, electricity and telecommunications and stormwater discharge are recommended. The subdivision ensures appropriate vehicular access is provided to each lot.  |

### **Draft Environmental Planning Instruments (EPI)**

There are no draft EPUs applicable to the site or development.

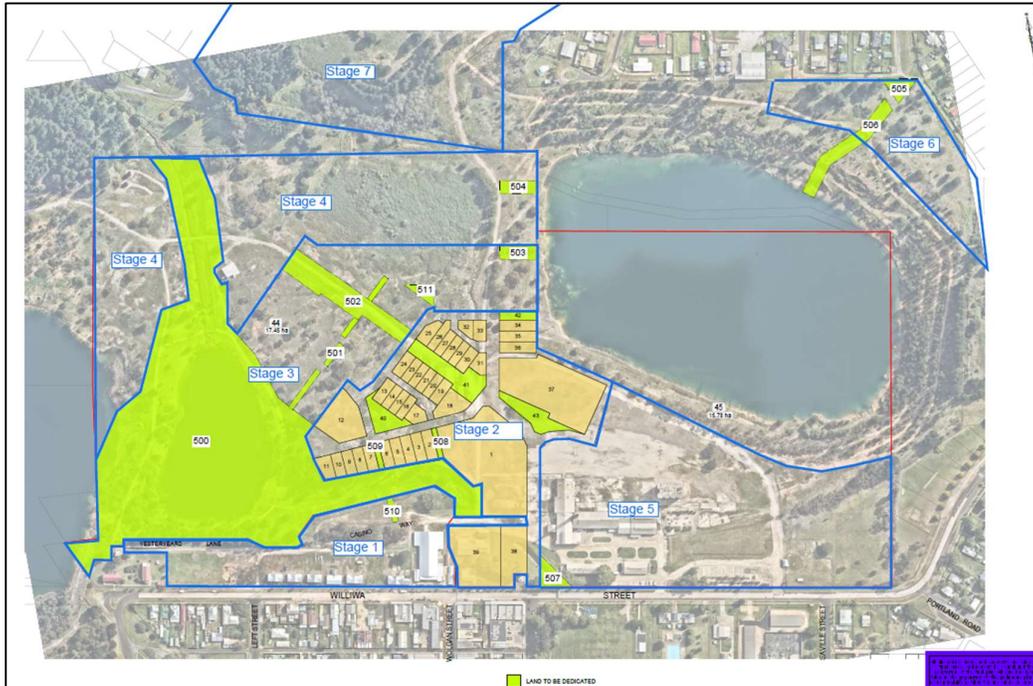
### **Voluntary Planning Agreements (VPA)**

A Voluntary Planning Agreement is proposed for the development. The applicant has provided a Letter of Offer which is considered acceptable and consistent with other similar planning agreements agreed to by Council. The letter of offer, and the resultant VPA, will apply to the whole of the development, not just this current stage, and includes the following:

- Dedication of Lot 510 at Stage 1
- Dedication of Lots 40, 41, 42, 43, 508 and 509 at Stage 2

- Dedication of Lots 500,501, 502 and 503 at Stage 3
- Dedication of Lot 504 at Stage 4
- Dedication of Lot 507 at Stage 5
- Dedication of Lots 505 and 506 at Stage 6.

The above mentioned lots are shown in the following diagram.



The public benefits of the dedications include the provision of public open space for pocket parks, passive recreation, a recreational water body and enhanced pedestrian connectivity.

The letter of offer also agrees that the VPA will not exclude the application of s7.11 and s7.12 development contributions to all future development and the letter of offer agrees in principle to the inclusion in the VPA of monetary contribution or works in kind contribution towards the provision of a future local community centre to service the development; the quantum of which is to be benchmarked on the provision of this this type of infrastructure at 80m<sup>2</sup> per 1000 people.

A standard condition is recommended to require the applicant to enter into a planning agreement with Council prior to the issue of a subdivision certificate.

**Foundations Portland Site Specific Development Control Plan (DCP) 2024**

| Applicable DCP Chapters                               |   |                                |   |
|---|---|--------------------------------|---|
| Chapter 4 – General Requirements for all Developments | X | Chapter 5 – Land Development   | X |
| Chapter 6 – Residential Subdivision                   | X | Chapter 7 – Residential Design |   |

| Chapter 4 – General Requirements for all Developments |   |
|---|---|
| Development Control                                   | Assessment Comments   |
| 4.1 Site Analysis                                     |   |
| 4.2 Contamination                                     | A Land-use Suitability Evaluation report was submitted with the development application. The report concludes that, "based on the available data and site observations, the areas |

|                              |   |
|------------------------------|---|
|                              | <p><i>of the former Portland Cement Works, proposed or residential development are considered suitable for the intended land use as defined by NEPM, 2013'.</i></p> <p>It is considered that Council can be satisfied that the site is suitable for the proposed use. No remediation works are required.</p>  |
| 4.3 Earthworks               | <p>The proposal will require bulk earthworks to create an appropriate final landform for the subdivision. Across the site, the extent of cut and fill is generally limited to less than 1m, however there are small areas where cut or fill of up to 3.075m is proposed. A bulk earthworks plan has been submitted with the development application. The plan demonstrates that the development will have no adverse impacts on adjoining properties and visual amenity. A condition requiring all fill to be certified VENM is recommended. No significant retaining walls are proposed. The site is not located on steep or unstable land.</p>  |
| 4.4 Stormwater Management    | <p>A Stormwater Management Plan has been provided with the development application. The plan shows stormwater being collected via drainage pits and pipes with discharge to residue lot 44 in the area of the future Stage 3, towards Mill Pond.</p> <p>A Stormwater Management Report has also been submitted with the development application. The report recommends stormwater quality measures including (future) residential rainwater tanks), gross pollutant traps and a 200m<sup>2</sup> bioretention area. The bioretention area is shown on the SMP in Stage 3 of the development. Water quality modelling shows that in the post development case the pollutant loads are less than those under existing site conditions and therefore meet the requirement to have a Neutral or Beneficial Effect (NorBE) on water quality.</p> <p>The existing Mill Pond is designated as the on-site detention area for the development. The surface area of Mill Pond is approximately 2.0ha. Therefore, a small increase in water level has the potential to generate a significant volume of storage. Detention storage within the Mill Pond will be achieved via construction of a stepped weir at the Pond's northern outlet to the Limestone Creek channel. OSD modelling confirms that the proposed OSD measures reduce flows from the development to no greater than pre-development conditions for a range of storm events, up to and including the 1% AEP, in accordance with Council's requirements.</p> |
| 4.5 Bushfire Risk Management | <p>A small part of the site is mapped as bushfire prone. However, the development area is not</p>   |

|                                     |  |
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|                                     | <p>mapped as bushfire prone. As the subdivision is for residential purposes and creates a residue lot that includes the mapped bushfire prone area, the development application was referred to the NSW Rural Fire Service, who issue General Terms of Approval.</p>   |
| 4.6 Heritage Conservation           | <p>A Heritage Impact Statement was submitted with the Development Application. The development application was referred to Heritage NSW who provided General Terms of Approval subject to no subdivision or landscape works within proposed Lots 38 and 39. A condition to this effect is recommended. The proposed subdivision layout is consistent with the Master Plan and provides a visual link between the Powerhouse buildings and the kilns. No lots for future buildings are proposed within the State Heritage Curtilage Boundary. The proposal is considered to be consistent with the Conservation Management Plan for the site.</p>   |
| 4.7 Indigenous Conservation         | <p>The applicant has advised in the Statement of Environmental Effects that <i>"given the extensive works and quarry for the cement works that have occurred on the site of the proposed subdivision for Stage 2, it is highly unlikely that any potential Aboriginal heritage will be impacted. Consultation occurred as part of the planning proposal for the site which indicated that there were no potential impacts from the proposal on Aboriginal heritage. An AHIMS search has been completed and is included in Appendix G which confirmed that there are no known sites within proximity of the site"</i>. Standard conditions regarding uncovering Aboriginal objects are recommended.</p>   |
| 4.8 Tree Retention and Biodiversity | <p>The applicant has advised in the Statement of Environmental Effects that <i>"given the limited extent of the subdivision for Stage 2, only a small number of trees and vegetation will be required to be removed, the majority of which are non-indigenous. A biodiversity assessment was not considered necessary in this regard. Any potential impacts will be less than minimal and can be offset by appropriate landscaping and tree replacement as part of the subdivision"</i>.</p> <p>The area of the proposed subdivision is mostly cleared of native vegetation. The primary area of vegetation clearing is in the location of proposed lots 34, 35, 36 and 42 and the vegetation in his area is regrowth. The extent of clearing is minimal and does not warrant the preparation of a Biodiversity Development Assessment. No threatened species or</p> |

|   |  |
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|   | endangered ecological communities are impacted by the development.   |
| 4.9 Vehicle Access, Parking and Servicing | A condition requiring details of vehicle access and driveways to be provided prior to the issue of a Subdivision Works Certificate is recommended. |
| 4.10 Active Transport                     | The proposal establishes a permeable network and encourages walking and cycling.   |
| 4.11 Waste Management                     | A Waste Management Plan has been submitted with the development application.   |
| 4.12 Connection to Utilities              | Conditions requiring satisfactory arrangements to be made to connect each lot to utilities is recommended.   |

| <b>Chapter 5 – Land Development</b>             |  |
|---|--|
| <b>Development Control</b>                      | <b>Assessment Comments</b>   |
| 5.1 Indicative Layout                           | The proposed subdivision layout is generally consistent with the indicative layout plan in the DCP. Minor variations to the indicative layout are considered to be appropriate and satisfy the vision and development objectives of the DCP.   |
| 5.2 Indicative Delivery and Development Staging | The proposed subdivision is consistent with the indicative staging plan in the DCP.  |
| 5.3 Street Network Layout and Design            | The proposed street network is generally in accordance with the street typology outlined in the DCP. The proposal establishes a permeable network and encourages walking and cycling. Appropriate street tree planting is proposed.  |
| 5.4 Pedestrian and Cycle Network                | The proposed pedestrian and cycle network is consistent with the Figure in the DCP. Off street shared paths are identified on the Landscape Plan to be 2.5m wide.  |
| 5.5 Public Parks / Domain Landscape Strategy    | Open space is proposed to be provided generally in accordance with the Conceptual Open Space & Dedication Plan in the DCP. The Landscape Plan submitted with the development application demonstrates appropriate embellishments of the open space areas.  |
| 5.6 Private Recreation Areas                    | The Landscape Plan submitted with the development application demonstrates appropriate embellishments of land zoned RE2.   |
| 5.7 Bulk Earthworks Stage                       | Details of bulk earthworks for Stage 2 have been provided with the development application. A Geotechnical Report and a Land-use Suitability Evaluation Report have been submitted with the development application. Remediation of the site is not required. Any fill to be brought to the site will be required to be VENM. A condition requiring structural plans of any proposed retaining walls is recommended. |

| <b>Chapter 6 – Residential Subdivision</b> |  |
|--|--|
| <b>Development Control</b>                 | <b>Assessment Comments</b>   |
| 6.1 Residential Targets                    | The proposed subdivision includes 34 residential lots plus 3 large residential lots for medium density development. It is considered that the proposal has sufficient area to meet the lot targets included in the DCP of 55-60 lots within Stage 2. The proposal provides adequate housing diversity through a range of lot size and potential dwelling forms.        |
| 6.2 Street Block and Lot Configuration     | The proposed street block and lot configuration is generally consistent with the master plan for the site and includes smaller lots adjacent to open space areas and larger corner lots. The proposal maximises regular shaped lots.   |
| 6.3 Battle-Axe Lots                        | No battle-axe lots are proposed.   |
| 6.4 Zero Lot Line Development              | No lots are designed for zero-lot line development.  |
| 6.5 Attached or Abutting Dwellings         | No attached or abutting dwellings are proposed within the residential lots. However, attached dwellings may be proposed in the large residential lots. This will be the subject of a separate development application.   |
| 6.6 Residue Lots                           | Two residue lots are proposed. The residue lots are capable of being developed in accordance with the master plan for the site.  |
| 6.7 Subdivision Approval Process           | Only 1 of 34 residential lots is proposed to be less than 300m <sup>2</sup> (Lot 32). It is therefore considered appropriate that the subdivision approval process follows Pathway A1 in the DCP. The Statement of Environmental Effects includes a diagram showing a building envelope for proposed Lot 32 demonstrating that a dwelling can suitably fit on the lot. |

### **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>   |
|------------------------------|--|
| Natural Environment          | Based on the information submitted, an assessment of the proposal and a site inspection, the development is considered unlikely to result in adverse impacts on the natural environment. |
| Built Environment            | The proposed development is considered to be generally consistent with the Master Plan for the site. The proposal is not   |

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|                           | considered to be an overdevelopment of the site and is unlikely to result in adverse impacts on the subject site and surrounding locality.   |
| Social Impact             | The proposed development facilitates new housing opportunities for the area. No adverse social impacts are anticipated as a result of the proposal.  |
| Economic Impact           | As the proposed development will be generally in keeping with the provisions of the planning instrument and is generally consistent with eh Master Plan for the site, it is expected a positive economic impact will result. |
| Natural Hazards- Bushfire | Complies – A small part of the site is mapped as bushfire prone, however the proposed development area is not mapped as bushfire prone.  |

**Consideration of recommendations by NSW Health**

| <b>Recommendation</b>   | <b>Comment</b>  |
|---|---|
| <p><b>Contamination</b><br/>The mitigation measures described in the Land-use Suitability Evaluation and Construction Management Plan should be taken, and any new information which comes to light during site preparation, remediation, demolition, or construction works which has the potential to alter previous conclusions about site suitability and contamination must be notified to the appropriate authority, should be implemented, to ensure that the public are not exposed to potentially contaminated/hazardous materials, whether through direct or indirect means, which may affect public health.</p> | The Land-use Suitability Evaluation and Construction Management Plan have been included as approved plans in Schedule A and a further condition requiring an unexpected finds protocol to be developed and followed is recommended. |
| <p><b>Noise</b><br/>The mitigation measures described in the Construction Management Plan should be taken to ensure that the surrounding nearby sensitive receivers are not subjected to excessive noise, vibration or other disturbances which may affect Public Health.</p>   | The Construction Management Plan has been included as approved plans in Schedule A.   |
| <p><b>Water Quality</b><br/>The mitigation measures described in the Construction Management Plan and Stormwater Management Report should be taken to ensure that residents/public are not subjected to poor water quality, whether through direct or indirect means, which may affect public health.</p>   | The Construction Management Plan has been included as approved plans in Schedule A.   |
| <p><b>Dust/Air Quality</b><br/>The mitigation measures described in the Construction Management Plan should be taken to ensure that the surrounding residents/public are not subjected to excessive dust or poor air quality which may affect public health.</p>  | The Construction Management Plan has been included as approved plans in Schedule A.   |
| <p><b>Walkability</b><br/>The Proposal should address dwelling entrances along the open space corridors to improve natural surveillance and safety.<br/>The Proposal should address safe walking and bike riding in laneways. Section 8.2.2 of the</p>  | The proposed street layout and walking/cycling paths are generally consistent with the Master Plan for the site and are considered to provide good walkability within the development and to the Portland Town Centre.              |

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| <p>Transport for NSW Design of Roads and Streets Guidelines provides design solutions for laneways including shared zones, continuous footpath treatments and lower speed limits.</p> <p>The Proposal's street designs use best practice layouts and designs from the Transport for NSW Design of Roads and Streets Guidelines, and the Walking Space Guide. This includes strong provisions to prioritise people crossing at intersections and mid-block within the Foundations.</p> |   |
| <p><b>Public Transport</b></p> <p>At least 80% of future households within the Foundations have access to a bus stop within 400m, with a regular weekday service.</p>   | <p>The applicant has advised that <i>"the subdivision has been designed so that it is physically and legibly connected to the town centre so future residents have easy and direct access to existing services. The overall site masterplan has been designed so that if required a future bus service could go through the site from Williwa Street through to Forest Street in the north. It should be noted that access to public transport within Portland is relatively limited to the main roads"</i>.</p> <p>The proposal is considered satisfactory with regards to public transport access.</p>  |
| <p><b>Rideability</b></p> <p>The Proposal's street designs protect and prioritise people riding within The Foundations, especially at intersections and where bikes and vehicles are sharing on street spaces. Transport for NSW's Design of Roads and Streets Guidelines and Cycleway Design Toolbox can guide Council here.</p>   | <p>It is considered that the subdivision has been designed to be pedestrian and cyclist friendly, consistent with the Master Plan for the site.</p>   |
| <p><b>Access to healthy food</b></p> <p>That 80% of the dwellings are within 800m of a supermarket.</p> <p>That all households have access within 400m to land suitable for growing food, whether this be a front or back yard, rooftop garden, community garden, or a private communal garden.</p>   | <p>The applicant has advised that <i>"the subdivision has been designed so that it is physically and legibly connected to the town centre so future residents have easy and direct access to existing services. In addition, there are a number of public spaces which could be used in the future for community gardens or the like. Further the Foundations site is home to markets at a number of times throughout the year and could potentially host farmers markets or similar in the future as the population grows which would increase access to local fresh foods"</i>.</p> <p>Based on the above, the proposal is considered acceptable in relation to access to healthy food.</p> |
| <p><b>Public Open Space</b></p> <p>That ample seating and water hydration stations are included in shaded locations along streets and open space corridors to support active transport and social connections for people of all ages and abilities.</p>   | <p>The applicant has advised that <i>"the public open space will include appropriate landscaping and rest areas. Consideration will also be given to hydration stations where possible"</i>.</p>  |

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|   | The landscape plan submitted with the development application demonstrates a range of seating options.   |
| <p><b>Employment</b></p> <p>The Proponents and Council engage with local Aboriginal organisations and people to support social and cultural enterprises that increase Connection with Country and Culture and offer new training and employment opportunities for local Aboriginal people. This may include through environmental management, tourism, arts, etc.</p>                     | <p>The applicant has advised that <i>"the subdivision is part of the large Foundations Portland site which works with the local community to build social capital through events, community spaces, art installations and much more. The overall site will provide for a variety of cultural, art and environmental opportunities for the local indigenous community"</i>.</p> <p>The issue of employment is a broader issue than this proposed subdivision. However, given the broader objectives for the Foundations arts and community spaces, the proposal is considered acceptable in relation to potential employment opportunities.</p> |
| <p><b>Social Infrastructure</b></p> <p>That Council provides safe routes to school for children travelling from The Foundations to Wallerawang Public School and St Joseph's Primary School. Of particular importance are safe crossing points on Williwa Street.</p> <p>That childcare centre provisions are also encouraged within close proximity of parks and public open spaces.</p> | <p>The applicant has advised that <i>"the proposed subdivision will not alter or change any pedestrian crossings. Council should consider the provision of appropriate crossings to enable the safe movement of children to schools and bus stops. The site is within 300m of Portland Central School"</i>.</p> <p>The issue of safe travelling to schools and the proximity of childcare centres are broader issues than this proposed subdivision.</p>   |
| <p><b>Housing</b></p> <p>That housing affordability needs are assessed, to ensure current and future lower income households and essential workers are accommodated.</p>  | <p>The applicant has advised that <i>"a variety of housing choice, lot size and type is proposed within the proposed subdivision. Consideration will be given to providing options that are more affordable when the dwellings are being proposed for approval, especially within the larger medium density sites"</i>.</p> <p>The issue of housing affordability is a broader issue than this proposed subdivision. However given the variety of lot sizes and the provision for future medium density housing, the proposal is considered acceptable in relation to housing affordability.</p>   |
| <p><b>Cool Suburbs</b></p> <p>Council applies the NSW Cool Suburbs Assessment tool to the Masterplan and controls to assess impacts on urban heat. This industry-based performance tool can assess place-based urban heat resilience and guide practitioners in making evidence-based planning and development decisions across all development scales and project types.</p>             | <p>The applicant has advised that <i>"the site is located within the Climate zone 7 – Cool Temperate and it is unlikely that heat will create an issue for residents. Notwithstanding this, the proposed subdivision provides considerable areas of open space and vegetation in an effort to ensure that there are no potential heat island impacts from the proposal. Local vegetation has been proposed that suits the climate. There will be an overall increase in vegetative cover for the site"</i>.</p>  |

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|  | Given the proposed development is consistent with the master plan for the site and the landscape plan shows extensive street and open space tree planting, it is considered that the proposal is acceptable having regard to minimising heat impacts. |
|--|---|

**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 surrounding land uses are for rural pursuits with the size and nature of the development consistent with those in the surrounding area. The development will have minimal impact to the surrounding amenity. The proposed development complies with the objectives of the zone and the site is considered to be suitable for the proposal.

**Public Participation**

Pursuant to the Lithgow Community Participation Plan, neighbour notification was undertaken for a period of 28 days from 22 November 2024 to 13 January 2026. During the public notification no submissions were received.

**Contributions**

**Section 7.12 Development Contributions Plan 2024**

Council’s Section 7.12 Development Contributions Plan 2024 **does not** apply to this development given it is intended to enter into a Voluntary Planning Agreement as part of this development application.

However, it should be noted that the VPA will not exclude the application of s7.11 or s.7.12 contributions from future development applications.

**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.

**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.

**Recommendation**

**THAT** Application DA142/24 is approved subject to conditions set out in Schedule A.

Assessment Prepared By:

\_\_\_\_\_  
Mark Hitchenson  
Contract Development Planner

Assessment Signed By:

Will Cherrington  
Team Leader Development

## **REASONS FOR CONDITIONS**

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

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

**Schedule A**

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

| GENERAL CONDITIONS   |   |          |  |          |            |  |                |  |  |  |  |  |  |       |        |         |       |          |      |  |  |                        |        |   |   |            |  |   |   |            |  |   |   |            |  |   |   |            |  |   |                        |        |   |   |            |  |   |   |            |  |  |        |          |  |   |            |  |
|--|---|----------|--|----------|------------|--|----------------|--|--|--|--|--|--|-------|--------|---------|-------|----------|------|--|--|------------------------|--------|---|---|------------|--|---|---|------------|--|---|---|------------|--|---|---|------------|--|---|------------------------|--------|---|---|------------|--|---|---|------------|--|--|--------|----------|--|---|------------|--|
| 1.   | <p><b>Approved Development</b></p> <p>Development Consent is granted for the demolition of a shed and subdivision creating 34 residential lots, 4 park lots, 3 large residential lots for future development and 2 residue lots on land known as Lot 53 DP 755769 and Lot 8 DP 1304112, 38 Williwa Street, Portland.</p> <p>Condition reason: To ensure all parties are aware of the approved development description and development address.</p>  |          |  |          |            |  |                |  |  |  |  |  |  |       |        |         |       |          |      |  |  |                        |        |   |   |            |  |   |   |            |  |   |   |            |  |   |   |            |  |   |                        |        |   |   |            |  |   |   |            |  |  |        |          |  |   |            |  |
| 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" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="7">Approved Plans</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 rowspan="4">Plan of Subdivision of Lot 53 DP 755769 and Lot 8 DP 1304112</td> <td rowspan="4">Barker Ryan<br/>Stewart</td> <td rowspan="4">210762</td> <td>1</td> <td>C</td> <td colspan="2">10/10/2024</td> </tr> <tr> <td>2</td> <td>C</td> <td colspan="2">10/10/2024</td> </tr> <tr> <td>3</td> <td>C</td> <td colspan="2">10/10/2024</td> </tr> <tr> <td>4</td> <td>C</td> <td colspan="2">10/10/2024</td> </tr> <tr> <td rowspan="2">Plan of Subdivision with Zone Map Underlay of Lot 53 DP 755769 and Lot 8 DP 1304112</td> <td rowspan="2">Barker Ryan<br/>Stewart</td> <td rowspan="2">210762</td> <td>1</td> <td>A</td> <td colspan="2">28/10/2024</td> </tr> <tr> <td>2</td> <td>A</td> <td colspan="2">28/10/2024</td> </tr> <tr> <td>Landscape Plans<br/>- Cover Sheet<br/>- Street Tree Masterplan<br/>- Pedestrian and Cycle Links<br/>- Landscape Masterplan<br/>- Heritage Trail Park: Detail Plan<br/>- Detail Plan: Heritage Trail Park Artist's Impression 01<br/>- Detail Plan: Heritage Trail Park Artist's Impression 02<br/>- Typical Pocket Park: Detail Plan<br/>- Heritage Park – Detail Plan<br/>- Entry: Plan<br/>- Type 1 Section (15m with road kerb and 15m Rural)<br/>- Type 2 Section (15m with road kerb)<br/>- Type 3 (10m with road kerb and 10.5m Rural)<br/>- Indicative Plant Palette<br/>- Materiality and Furniture: Recreation</td> <td>Habit8</td> <td>H8-21036</td> <td>L02<br/>L03<br/><br/>L04<br/>L05<br/><br/>L06<br/>L07<br/>L08<br/>L09<br/><br/>L10<br/>L11<br/><br/>L12<br/>L13<br/><br/>L14<br/>L15</td> <td>B</td> <td colspan="2">15/07/2024</td> </tr> </tbody> </table> |          |  |          |            |  | Approved Plans |  |  |  |  |  |  | Title | Author | Project | Sheet | Revision | Date |  | Plan of Subdivision of Lot 53 DP 755769 and Lot 8 DP 1304112 | Barker Ryan<br>Stewart | 210762 | 1 | C | 10/10/2024 |  | 2 | C | 10/10/2024 |  | 3 | C | 10/10/2024 |  | 4 | C | 10/10/2024 |  | Plan of Subdivision with Zone Map Underlay of Lot 53 DP 755769 and Lot 8 DP 1304112 | Barker Ryan<br>Stewart | 210762 | 1 | A | 28/10/2024 |  | 2 | A | 28/10/2024 |  | Landscape Plans<br>- Cover Sheet<br>- Street Tree Masterplan<br>- Pedestrian and Cycle Links<br>- Landscape Masterplan<br>- Heritage Trail Park: Detail Plan<br>- Detail Plan: Heritage Trail Park Artist's Impression 01<br>- Detail Plan: Heritage Trail Park Artist's Impression 02<br>- Typical Pocket Park: Detail Plan<br>- Heritage Park – Detail Plan<br>- Entry: Plan<br>- Type 1 Section (15m with road kerb and 15m Rural)<br>- Type 2 Section (15m with road kerb)<br>- Type 3 (10m with road kerb and 10.5m Rural)<br>- Indicative Plant Palette<br>- Materiality and Furniture: Recreation | Habit8 | H8-21036 | L02<br>L03<br><br>L04<br>L05<br><br>L06<br>L07<br>L08<br>L09<br><br>L10<br>L11<br><br>L12<br>L13<br><br>L14<br>L15 | B | 15/07/2024 |  |
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| Areas – Stage 2<br>Subdivision                 |                        |           |  |     |   |            |
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| Civil Plans                                    | Barker Ryan<br>Stewart | 210762-01 |  |     | D | 04/09/2025 |
| - Cover Sheet                                  |                        |           |  | 001 |   |            |
| - Drawing Index                                |                        |           |  | 002 |   |            |
| - General Notes                                |                        |           |  | 011 |   |            |
| - Overall Site Plan                            |                        |           |  | 015 |   |            |
| - General Arrangement                          |                        |           |  | 021 |   |            |
| - Typical Road Sections and<br>Pavement Design |                        |           |  | 031 |   |            |
| - Bulk earthworks Layout –<br>Stage 2          |                        |           |  | 051 |   |            |
| - Site Sections – Stage 2                      |                        |           |  | 052 |   |            |
| - Road Layout Detail Plan                      |                        |           |  | 101 |   |            |
| - Street Trees and Parking<br>Bays Plan        |                        |           |  | 111 |   |            |
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| - Longitudinal Section<br>Sheet 2              |                        |           |  | 202 |   |            |
| - Longitudinal Section<br>Sheet3               |                        |           |  | 203 |   |            |
| - Longitudinal Section<br>Sheet 4              |                        |           |  | 204 |   |            |
| - Road MC01 Cross<br>Sections                  |                        |           |  | 301 |   |            |
| - Road MC02 and MC03<br>Cross Sections         |                        |           |  | 302 |   |            |
| - Road MC04 Cross<br>Sections                  |                        |           |  | 303 |   |            |
| - Road MC05 and MC06<br>Cross Sections         |                        |           |  | 304 |   |            |
| - Laneway Cross Sections                       |                        |           |  | 305 |   |            |
| - Intersection Road MC01<br>and MC02           |                        |           |  | 401 |   |            |
| - Intersection Road MC01<br>and MC03           |                        |           |  | 402 |   |            |
| - Intersection Road MC01<br>and MC04           |                        |           |  | 403 |   |            |
| - Intersection Road MC04<br>and MC05           |                        |           |  | 404 |   |            |
| - Intersection Road MC05<br>and MC06           |                        |           |  | 405 |   |            |
| - Intersection Road MC06<br>and MC04           |                        |           |  | 406 |   |            |
| - Cul-de-sac Layout Road<br>MC04               |                        |           |  | 407 |   |            |
| - Intersection Williwa<br>Street and MC01      |                        |           |  | 408 |   |            |
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| - Drainage Overall Layout<br>Plan              |                        |           |  | 510 |   |            |
| - Drainage Plan Sheet 1                        |                        |           |  | 511 |   |            |
| - Drainage Plan Sheet 2                        |                        |           |  | 512 |   |            |

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| - Drainage Plan Sheet 4                    |  |  | 514 |  |  |
| - Drainage Plan Sheet 5                    |  |  | 515 |  |  |
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|   | - Existing Sewer Longitudinal Section Sheet 1   |  |          | 581 |   |            |
|   | - Existing Sewer Longitudinal Section Sheet 2   |  |          | 582 |   |            |
|   | - Erosion and Sediment Control Plan   |  |          | 801 |   |            |
|   | - Erosion and Sediment Control Details  |  |          | 811 |   |            |
|   | Statement of Environmental Effects  | Barker Ryan Stewart                      | 210762   |     | 2 | 11/10/2024 |
|   | Statement of Heritage Impact  | Weir Phillips                            |          |     |   | 03/10/2024 |
|   | Stormwater Management Report  | Barker Ryan Stewart                      | CC180099 |     | 2 | 11/10/2024 |
|   | Geotechnical Investigation  | Green Geotechnics                        |          |     | A | 04/07/2022 |
|   | Archaeological Assessment   | Steven Ring Heritage Management Services |          |     |   | May 2025   |
|   | Construction Management Plan  | Barker Ryan Stewart                      | 210762   |     | 2 | 11/10/2024 |
|   | Land-use Suitability Evaluation for Proposed Earthworks   | CHEC                                     | CH1321   |     | 1 | 02/07/2022 |
|   | Waste Management Plan   | Barker Ryan Stewart                      | 210762   |     | 2 | 11/10/2024 |
|   | Bushfire Hazard Assessment  | Blackash Bushfire Consulting             | J3822    |     | 1 | 17/12/2024 |
|   | Drainage Channel Revegetation Plan  | F Dominic Fanning                        |          |     |   | 15/04/2025 |
| <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>Lots 38 and 39 and works on these lots not approved</b><br/> The subdivision of proposed Lots 38 and 39 and any landscaping works, clearing of vegetation or removal of the memorial in proposed Lot 39 are not approved. Lots 38 and 39 are to be retained in residue Lot 50.</p>                    |  |          |     |   |            |
| <p>Condition Reason: To comply with the requirements of the Department of Planning and Environment - Heritage.</p>  |   |  |          |     |   |            |
| 4.  | <p><b>Separate Development Application Required</b><br/> Prior to any future development or use of the proposed lots, other than for exempt development or development without consent, development consent or a complying development certificate is to be obtained from a relevant consent authority.</p> |  |          |     |   |            |
| <p>Condition Reason: To inform the applicant that separate development consent is required for the use of the land. To meet the requirements of Section 4.2 of the Environmental Planning and Assessment Act 1979.</p>                      |   |  |          |     |   |            |

## SUBDIVISION WORK

| <b>PRIOR TO THE ISSUE OF A SUBDIVISION WORKS CERTIFICATE</b> |  |
|--|--|
| 5.   | <p><b>Section 68 – Local Government Act</b></p> <p>A Section 68 application must be submitted to Council prior to any further development. The application must be accompanied with all drawings of site showing council infrastructure, proposed connections to infrastructure and appurtenance such as meters, hydrants, valves, gravity sewer, rising mains, detailed long sections of the water and sewer mains.</p> <p>The S68 application must include the details of the proposed connection points to Council water and sewerage system including size and position. A review of the existing connections to site will need to be undertaken to review if the available pressure and flow is adequate for the development.</p> <p>The water and sewer design must be completed in accordance with all Water Service Association of Australia codes.</p> <p>A full hydraulic assessment is to be provided to Council for both the water and sewerage systems to ensure adequate flow and pressure is available in the system for the proposed demands.</p> <p>A holistic design for sewerage is to be undertaken for the site with the view to reduce the number of both existing sewerage pumping stations in the area and the required pumping facilities for servicing the site.</p> <hr/> <p>Condition Reason: To ensure the development is appropriately serviced in accordance with Council's Policy.</p> |
| 6.   | <p><b>Works In Kind Agreement</b></p> <p>The development is to be serviced by connection to Council's sewerage system in accordance with the Council's servicing strategy, which includes the construction of the proposed sewer trunk main as a Work in Kind (WIK) agreement to replace the need for a Cement Works SPS.</p> <p>A WIK agreement for the construction of the proposed sewer trunk main must be executed between the Developer and Council, or otherwise endorsed in principle by Council, prior to the issue of any Section 68 approval or Construction Certificate.</p> <p>Detailed design plans for the sewer trunk main must be submitted to and approved by Council prior to the issue of any Construction Certificate or Section 68 approval for sewer works. The detailed design must demonstrate adequate capacity to service the approved 43 lot subdivision and future stages it will serve.</p> <p>The updated servicing plan must show the removal of the Cement Works SPS and inclusion of the approved sewer trunk main alignment.</p> <hr/> <p>Condition Reason: To ensure the development is appropriately serviced in accordance with Council's Policy.</p>  |
| 7.   | <p><b>Engineering Requirements – General</b></p> <p>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 BARKER RYAN STEWART, Project Number: 210762, Revision D, Dated 04/09/2025.</p> <p>All subdivision works shall 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>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> </ul>   |

|     |   |
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|     | <ul style="list-style-type: none"> <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>The Subdivision Works Certificate must be supported by engineering plans, calculations, specifications and any certification relied upon. In addition to plans of all proposed civil works, structural plans of any proposed retaining walls and details of vehicle access driveways to each residential lot must be provided with the application for a Subdivision Works Certificate.</p>   |
|     | Condition Reason: To ensure the development is appropriately serviced in accordance with Council's Policy.  |
| 8.  | <p><b>Road Design</b></p> <p>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 Development for Developments and the following criteria: ESA: <math>5 \times 10^5</math> for Road MC01 and ESA: <math>1 \times 10^5</math> for all other roads.</p> <p>Vehicular swept path and turning circles for access road and kerb return prepared by and certified by a suitably registered professional Traffic Engineer required shall be required prior to issue of a subdivision works certificate.</p> <p>Cul-de-sac radius needs to be in accordance with section 2.3.4.6 of Guidelines for Civil Engineering Design and Construction. Amended plans shall be required prior to issue of a subdivision works certificate.</p> <p>Each lot driveway layout to determine safe driveway access location in accordance with section 2.3.5.6 of Guidelines for Civil Engineering Design and Construction shall be required prior to issue of subdivision works certificate.</p> <p>A copy of the pavement design prepared and certified by a suitably qualified geotechnical engineer must accompany the application for a Subdivision Works Certificate.</p> |
|     | Condition Reason: To ensure the road design complies with Council's Engineering Standards.  |
| 9.  | <p><b>Street Signs, Traffic Signs and other traffic devices</b></p> <p>Street signs are required at all road junctions. Signs shall be purchased from Council. The location of proposed street signs is to be shown on the Engineering Drawings submitted with the Subdivision Works Certificate.</p> <p>Traffic signs, traffic signals, pavement markings, guide posts, delineators, safety barriers and the like, whether permanent or temporary, are to be designed and installed at all roads in accordance with guidelines contained within the Austroads publication, "Guide to Traffic Engineering Practice – Part 8: Traffic Control Devices", Australian Standard 1742 – Manual of Uniform Traffic Control Devices and the Roads and Traffic Authority "Road Design Guide". All traffic control devices and signage are to be detailed in the engineering drawings submitted with the construction certificate. The consent of Lithgow City Council's Executive Manager of Operations or appointed officer will be required prior to the installation of any traffic control devices on existing roads.</p>  |
|     | Condition Reason: To ensure traffic signs and devices comply with relevant Australian Standards.  |
| 10. | <p><b>Voluntary Planning Agreement</b></p> <p>The Applicant must enter into a planning agreement with Council as soon as practicable and in any event, prior to the issue of a subdivision certificate in relation to DA142/24, in accordance with:</p> <p>(a) Division 7.1 of Part 7 of the EP&amp;A Act; and</p> <p>(b) the terms of the applicant's letter of offer to Council dated 19 November 2025.</p>   |
|     | Condition Reason: To ensure the development provides a public benefit.  |

|     |  |
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| 11. | <p><b>Long Service Levy</b></p> <p>Prior to the issue of a Subdivision Works Certificate, the owner/developer shall pay a long service levy at the prescribed rate to the Long Service Levy Corporation and evidence of payment is to be submitted to the Principal Certifier.</p> <p><b>Note:</b></p> <ul style="list-style-type: none"> <li>• The levy rate is 0.25% of the cost of building and construction works of \$250,000.00 and or more (including GST).</li> <li>• Council cannot accept payment of the Long Service Levy and is to be paid directly to the Long Service Corporation:</li> </ul> <p>Link: <a href="https://www.longservice.nsw.gov.au/bci/levy#pay-the-levy">https://www.longservice.nsw.gov.au/bci/levy#pay-the-levy</a></p>   |
|     | <p>Condition Reason: To demonstrate compliance with the requirements of the Long Service Corporation and ensure fees are paid.</p>   |
| 12. | <p><b>Revised Construction Environmental Management Plan</b></p> <p>Prior to the commencement of works, a revised Construction Environmental Management Plan (CEMP) must be provided to Council for approval. The CEMP must address all environmental aspects of the development's construction phases, and include where relevant, but not be limited to, the following:</p> <ol style="list-style-type: none"> <li>a. Project Contact Information</li> <li>b. Site Security Details</li> <li>c. Timing and Sequencing Information</li> <li>d. Site Soil and Water Management Plan</li> <li>e. Stormwater Management Plan and Sediment Control</li> <li>f. Surface and Groundwater Management Plan</li> <li>g. Landscape Management Plan</li> <li>h. Traffic Management Plan</li> <li>i. Noise and Vibration Control Plan</li> <li>j. Dust Control Plan</li> <li>k. Health and Safety Plan</li> <li>l. Waste Management Plan</li> <li>m. Incident and Complaints Management Plan</li> <li>n. Unexpected Finds Protocol</li> </ol> |
|     | <p>Condition Reason: To ensure the development is undertaken in a manner that protects the environment and human health.</p>   |

| <b>PRIOR TO THE COMMENCEMENT OF CIVIL WORKS</b> |  |
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| 13.   | <p><b>Subdivision Works Certificate</b></p> <p>A Subdivision Works Certificate must be obtained from Lithgow City Council or a private certifier who is registered and authorised for subdivision/engineering works prior to the commencement of any civil construction works for the subdivision, including for works on Williwa Street.</p> <hr/> <p>Condition Reason: To ensure compliance with the requirements of the Environmental Planning and Assessment Act 1979 and associated regulations.</p>  |
| 14.   | <p><b>Notice of Commencement</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> <hr/> <p>Condition Reason: To ensure compliance with the requirements of the Environmental Planning and Assessment Act 1979 and associated regulations.</p> |
| 15.   | <p><b>Erosion and sediment controls in place</b></p> <p>Before any site work commences, the Principal Certifier, must be satisfied the erosion and sediment controls in the erosion and sediment control plan are in place. These controls must remain in place until any bare earth has been restabilised in accordance with the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the Blue Book) (as amended from time to time).</p> <hr/> <p>Condition Reason: To ensure sediment laden runoff and site debris do not impact local stormwater systems and waterways.</p>  |
| 16.   | <p><b>Protection of adjoining areas</b></p> <p>A temporary hoarding or temporary construction site fence must be erected between the work site and adjoining lands before the works begin, and must be kept in place until after the completion of works, if the works—</p> <ul style="list-style-type: none"> <li>(a) could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic, or</li> <li>(b) could cause damage to adjoining lands by falling objects, or</li> <li>(c) involve the enclosure of a public place or part of a public place.</li> </ul> <hr/> <p>Condition Reason: To ensure site management measures are implemented during the carrying out of site work.</p>  |
| 17.   | <p><b>General Terms of Approval (Department of Planning and Environment-Water)</b></p> <p>The development shall be constructed, completed and managed in accordance with and comply with the requirements of the NSW Department of Planning and Environment-Water General Terms of Approval (GTAs), reference IDAS-2024-10783 dated 17 April 2025.</p> <hr/> <p>Condition Reason: To ensure compliance with the General Terms of Approval issued by the relevant approval bodies.</p>  |
| 18.   | <p><b>General Terms of Approval (Department of Climate Change, Energy, the Environment and Water)</b></p> <p>The development shall be constructed, completed and managed in accordance with and comply with the requirements of the NSW Department of Climate Change, Energy, the Environment and Water General Terms of Approval (GTAs), reference HMS ID: 7772 dated 3 July 2025.</p> <hr/> <p>Condition Reason: To ensure compliance with the General Terms of Approval issued by the relevant approval bodies.</p>   |

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| 19. | <p><b>General Terms of Approval (Rural Fire Service)</b></p> <p>The development shall be constructed, completed and managed in accordance with and comply with the requirements of the NSW Rural Fire Service General Terms of Approval (GTAs), reference DA20250128000338-Original-1 dated 8 April 2025.</p> <p>Condition Reason: To ensure compliance with the General Terms of Approval issued by the relevant approval bodies.</p>   |
| 20. | <p><b>ENDEAVOUR ENERGY REQUIREMENTS</b></p> <p>To ensure an adequate connection, the applicant will need to engage an Accredited Service Provider (ASP) of an appropriate level and class of accreditation to assess the electricity load and the proposed method of supply for the development.</p> <p>Any required padmount substation/s will need to be located within the property (in a suitable and accessible location) and be protected (including any associated cabling not located within a public road / reserve) with an appropriate form of property tenure as detailed in the attached copy of Endeavour Energy's 'Land Interest Guidelines for Network Connection'.</p> <p>Generally it is the Level 3 Accredited Service Provider's (ASP) responsibility (engaged by the developer) to make sure substation location and design complies with Endeavour Energy's standards the suitability of access, safety clearances, fire ratings, flooding etc. If the substation does not comply with Endeavour Energy's standards, the applicant must request a dispensation.</p> <p>As part of an application for proposed works to Endeavour Energy's Customer Network Solutions Branch, details of the proposed removal or relocation of the power pole at the location of the proposed new entrance shall be included.</p> <p>The applicant should refer to Endeavour Energy's Standard Conditions for Development Applications and Planning Proposals, Version 10, January 2025.</p> <p>Condition Reason: To ensure compliance with the requirements of Endeavour Energy.</p> |
| 21. | <p><b>Toilet facilities</b></p> <p>(1) Toilet facilities must be available or provided at the work site before works begin, and must be maintained until the works are completed, at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.</p> <p>(2) Each toilet must—</p> <p>(a) be a standard flushing toilet connected to a public sewer, or</p> <p>(b) have an on-site effluent disposal system approved under the Local Government Act 1993, or</p> <p>(c) be a temporary chemical closet approved under the Local Government Act 1993.</p> <p>Condition Reason: To ensure site management measures are implemented during the carrying out of site work.</p>  |
| 22. | <p><b>Traffic Control Plan</b></p> <p>A fully certified traffic control plan and road works signage plan is to be submitted to Council prior to the commencement of any works where machinery may obstruct traffic on any public road while construction work is being undertaken. A traffic control plan and certification of fully qualified contractors/persons is 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 the developer complies with suitable traffic management procedures.</p> <p>Condition Reason: To ensure minimal impact is made to traffic in the area.</p>   |
| 23. | <p><b>Council Assets</b></p>   |

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|     | <p>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>  |
|     | <p>Condition Reason: To ensure minimal impact is made to Council assets.</p>  |
| 24. | <p><b>Contract Works Insurance</b></p> <p>The Applicant 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> |
|     | <p>Condition Reason: To ensure minimal impact is made to Council assets.</p>  |

**CONDITIONS APPLYING DURING THE WORKS**

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| 25. | <p><b>Construction Hours</b></p> <p>Construction may only be carried out between 7.00am and 5.00pm on Monday to Saturday. No construction is to be carried out at any time on a Sunday or a public holiday.</p>   |
|     | <p>Condition Reason: To protect the amenity of the surrounding area.</p>  |
| 26. | <p><b>Construction Noise</b></p> <p>Construction noise shall be in accordance with the 'Noise Control Guidelines for Construction Noise Standards'. Hours of operation shall be permitted between 7am and 6pm Monday to Friday and 8am and 1pm Saturdays. No heavy machinery work or usage shall be permitted on Sundays or Public Holidays.</p>  |
|     | <p>Condition Reason: To protect the amenity of the surrounding area.</p>  |
| 27. | <p><b>Site management</b></p> <p>All materials and equipment must be stored wholly within the work site unless an approval to store them elsewhere is held. Waste materials (including excavation, demolition and construction waste materials) must be managed on the site and then disposed of at a waste management facility.</p>  |
|     | <p>Condition Reason: To ensure site management measures are implemented during the carrying out of site work.</p>   |
| 28  | <p><b>Complaints</b></p> <p>The applicant is to comply with all reasonable requests from Council with regard to any complaints received during construction works.</p>  |
|     | <p>Condition Reason: To ensure the works are managed to minimise impacts on surrounding properties.</p>   |
| 29. | <p><b>Demolition</b></p> <p>1) Demolition is to be carried out in accordance with the applicable provisions of Australian Standard AS2601 1991 - The Demolition of Structures.</p> <p>Note: Developers are reminded that SafeWork requires that all plant and equipment used in demolition work must comply with the relevant Australian Standards and manufacturer specifications.</p> <p>2) The developer is to notify owners and occupiers of premises on either side, opposite and at the rear of the development site five (5) working days prior to demolition. Such notification is to be clearly written on A4 size paper stating the date demolition will commence and is to be placed in the letterbox of every premises (including every residential flat or unit, if any)</p> |

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|            | <p>either side, immediately at the rear of, and directly opposite the demolition site. The demolition must not commence prior to the date stated in the notification.</p> <p>3) Five (5) working days (i.e. Monday to Friday with the exclusion of Public Holidays) notice in writing is to be given to Lithgow City Council for inspection of the site prior to the commencement of works. Such written notice is to include the date when demolition will commence and details of the name, address, business hours contact telephone number and licence number of the demolisher. Works are not to commence prior to Lithgow City Council's inspection and works must not commence prior to the commencement date nominated in the written notice.</p> <p>4) On demolition sites where buildings to be demolished contain asbestos cement, a standard commercially manufactured sign containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm is to be erected in a prominent visible position. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site to an approved waste facility. This condition is imposed for the purpose of worker and public safety and to ensure compliance with the Work Health and Safety Regulation 2017.</p> <p>5) Demolition works involving the removal and disposal of asbestos cement must only be undertaken by contractors who hold a current WorkCover "Demolition Licence" and a current WorkCover "Class 2 (Restricted) Asbestos Licence".</p> <p>6) Demolition works are restricted to Monday to Saturday between the hours of 7.00am to 5.00pm. No demolition works are to be undertaken on Sundays or Public Holidays.</p> <p>7) Protective fencing is to be installed to prevent public access to the site.</p> <p>8) All asbestos laden waste, including asbestos cement flat and corrugated sheets must be disposed of at an approved Waste Management Centre.</p> <p>9) Within fourteen (14) days of completion of demolition, the applicant shall submit to Lithgow City Council:</p> <ul style="list-style-type: none"> <li>(i) an asbestos clearance certificate prepared by a NATA accredited occupational hygienist stating the site is suitable for residential development; and</li> <li>(ii) a signed statement verifying that demolition work and the recycling of materials was undertaken in accordance with the Workcover guidelines.</li> </ul> |
|            | <p>Condition Reason: To ensure the proposal complies with the requirements of AS 2601-2001</p>  |
| <p>28.</p> | <p><b>Road Construction</b></p> <p>Each layer of pavement shall be tested for compaction and deflection as detailed below. The Executive Manager of Operations or his delegate must approve each layer prior to the placing and compaction of subsequent layers.</p> <p>(a) Compaction Testing:</p> <p>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</p>  |

(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    | AS 1289.E1.1 |
|          | California Bearing Ratio (CBR) test | AS 1289.F1.1 |
| Sub-Base | 100% standard maximum dry density   | AS 1289.E1.1 |
| Base     | 100% standard maximum dry density   |              |
|          | • <i>Unbound Materials</i>          | AS 1289.E2.1 |
|          | • <i>Cemented Materials</i>         | AS 1289.E3.1 |
|          | Density in place test               | AS 1289.E3.1 |
|          | California Bearing Ratio (CBR) test | 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 road design complies with Council's Engineering Standards.

29.

**Inspections**

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:

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|     | <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 dockets for all materials used, and all material and performance test results obtained in the development.</p>  |
|     | <p>Condition Reason: To ensure the road design complies with Council's Engineering Standards</p>   |
| 30. | <p><b>Earthworks, retaining walls and structural support</b></p> <p>(1) Any earthworks (including any structural support or other related structure for the purposes of the development)—</p> <p>(a) 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</p> <p>(b) must not redirect the flow of any surface or ground water or cause sediment to be transported onto an adjoining property, and</p> <p>(c) All fill is certified to be 'Virgin Excavated Natural Material' (VENM) or Excavated Natural Material (ENM) subject to a Resource Recovery Exemption in accordance with the NSW EPA Protection of the Environment Operations Regulation 2014. A material classification report is required to be submitted to Council prior to the placement of imported fill, and</p> <p>(d) that is excavated soil to be removed from the site—must be disposed of in accordance with any requirements under the Protection of the Environment Operations (Waste) Regulation 2005.</p> <p>(2) 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>(3) 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>Condition Reason: To ensure site management measures are implemented during the carrying out of site work.</p> |
| 31. | <p><b>Water and sewer works</b></p> <p>All works are to be constructed in accordance with Council's specification and relevant standards and are to be inspected and approved by Council prior to connection and use.</p> <p>Condition Reason: To ensure the works are undertaken in accordance with Council's specifications.</p>   |
| 32. | <p><b>Vehicle Movements</b></p> <p>All vehicles entering or leaving the site must have their loads covered, and before leaving the site, must be cleaned of dirt, sand and other materials, to avoid tracking these materials onto public roads.</p> <p>Condition reason: To promote safe entry and exit to the construction site.</p>   |
| 33. | <p><b>Waste management</b></p> <p>Waste materials (including excavation, demolition and construction waste materials) must be managed on the site and then disposed of at a waste management facility. Copies of receipts stating the following must be given to the principal certifying authority—</p> <p>(a) the place to which waste materials were transported,</p>   |

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|                              | <p>(b) the name of the contractor transporting the materials,<br/> (c) the quantity of materials transported off-site and recycled or disposed of.</p>   |
|                              | Condition Reason: To promote safe and responsible disposal of waste.   |
| 34.                          | <p><b>Dust Suppression</b></p> <p>The Applicant shall ensure that during the construction works all measures are taken to eliminate/suppress any dust nuisance emanating from the site.</p>  |
|                              | Condition reason: To protect the amenity of the area.  |
| 35.                          | <p><b>Contamination</b></p> <p>Should any suspect materials (identified by unusual staining, odour, discoloration or inclusions such as building rubble, asbestos, ash material, etc) be encountered during any stage of works (including earthworks, site preparation or construction works, etc) such works shall cease immediately until a qualified environmental specialist has been contact and conducted a thorough assessment.</p> <p>In the event that contamination is identified as a result of this assessment and if remediation is required, all works must cease in the vicinity of the contamination, and Council must be notified.</p>  |
|                              | Condition Reason: To ensure potential contamination is appropriately managed and mitigated onsite.   |
| 36.                          | <p><b>Archaeology discovered during excavation</b></p> <p>If any object having interest due to its age or association with the past is uncovered during the course of the work—</p> <p>(a) all work must stop immediately in that area, and<br/> (b) the Office of Environment and Heritage must be advised of the discovery.</p> <p><i>Note. Depending on the significance of the object uncovered, an archaeological assessment and excavation permit under the Heritage Act 1997 may be required before further the work can continue.</i></p>  |
|                              | Condition reason: To ensure potential archaeology is appropriately managed.  |
| 37.                          | <p><b>Aboriginal objects discovered during excavation</b></p> <p>If any Aboriginal object (including evidence of habitation or remains) is discovered during the course of the work—</p> <p>(a) all excavation or disturbance of the area must stop immediately in that area, and<br/> (b) the Office of Environment and Heritage must be advised of the discovery in accordance with section 89A of the <i>National Parks and Wildlife Act 1974</i>.</p> <p><i>Note. If an Aboriginal object is discovered, an Aboriginal heritage impact permit may be required under the National Parks and Wildlife Act 1974.</i></p>  |
|                              | Condition reason: To ensure potential archaeology is appropriately managed.  |
| <b>BUSHFIRE REQUIREMENTS</b> |  |
| 38.                          | <p><b>Asset Protection Zones</b></p> <p>At the commencement of building works or the issue of a subdivision certificate (whichever comes first), and in perpetuity to ensure ongoing protection from the impact of bush fires, the entire site identified as "Stage 2" must be managed 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 IPA the following requirements apply:</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 2m above the ground;</li> <li>• tree canopies should be separated by 2 to 5m;</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> </ul> |

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|     | <ul style="list-style-type: none"> <li>• shrubs should not be located under trees;</li> <li>• shrubs should not form more than 10% ground cover;</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> <p>A restriction to the land use pursuant to section 88B of the Conveyancing Act 1919 shall be placed on the identified parts of the site surrounding the subdivision for the purpose of a temporary asset protection zone (APZ) in accordance with the APZ plan at Figure 7 of the report prepared by BlackAsh Bushfire Consulting dated 17 December 2024 and Appendix 4 of Planning for Bush Fire Protection 2019. The restriction to land use for the purpose of a temporary asset protection zone may be extinguished upon commencement of future development over the affected areas. The name of authority empowered to release, vary or modify any instrument shall be Penrith City Council.</p> <p>When establishing and maintaining an IPA the following requirements apply:</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 2m above the ground;</li> <li>• tree canopies should be separated by 2 to 5m;</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> |
|     | <p>Condition reason: to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.</p>   |
| 39. | <p><b>Access – Public Roads</b></p> <p>Non-perimeter 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>• minimum 5.5m carriageway width kerb to kerb;</li> <li>• parking is provided outside of the carriageway width;</li> <li>• hydrants are located clear of parking areas;</li> <li>• roads are through roads, and these are linked to the internal road system at an interval of no greater than 500m;</li> <li>• curves of roads have a minimum inner radius of 6m;</li> <li>• the road crossfall does not exceed 3 degrees; and</li> <li>• a minimum vertical clearance of 4m to any overhanging obstructions, including tree branches, is provided.</li> </ul>   |
|     | <p>Condition reason: to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.</p>   |
| 40. | <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>  |

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|     | <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 and 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>○ lines are installed with short pole spacing (30m), unless crossing gullies, gorges or riparian areas; and</li> <li>○ 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 and the requirements of relevant authorities, and metal piping is used;</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 10m 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 measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack.</p>  |
| 41. | <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 no 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>   |

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|     | Condition reason: The intent of measure is to provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area.   |
| 42. | <p><b>Completion of Works</b></p> <p>Upon completion of all works in the road reserve, all verge areas fronting and within the development are to be turfed. The turf shall extend from the back of kerb to the property boundary, with the exception of concrete footpaths, service lids or other infrastructure which is not to be turfed over. Turf laid up to concrete footpaths, service lids or other infrastructure shall finish flush with the edge.</p> <p>Condition Reason: To ensure the proposal complies with Council's Engineering Standards</p> |
| 43. | <p><b>Street Lighting</b></p> <p>Street lighting is to be provided for all new and existing streets within the proposed subdivision to Lithgow City Council's standards.</p> <p>Condition Reason: To ensure street lighting is provided to comply with Council's Engineering Standards.</p>  |

| <b>BEFORE ISSUE OF SUBDIVISION CERTIFICATE</b> |   |
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| 44.  | <p><b>Subdivision Certificate Required</b></p> <p>An application for Subdivision Certificate is to be lodged with Council including payment of relevant fees, two copies of the registered surveyors plans of subdivision, any associated 88B instrument (if applicable) following the compliance with all conditions of this consent.</p> <p>The plan of subdivision shall show proposed lots 38 and 39 as part of residue Lot 45.</p> <p>The plan of subdivision shall show any and all required easements for sewer and/or drainage, or other utilities as required.</p> <p>Condition reason: Legislative Requirement.</p>   |
| 45.  | <p><b>Certificate of Compliance – Water and Sewer Works</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. 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.</p> <p>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>A Certificate of Compliance must be issued prior to the release of the Subdivision Certificate/Occupation Certificate. In accordance with Section 306(2) Water Management Act 2000 a precondition to the issue of the Certificate of Compliance is the payment of Development Contributions and that all water and/or sewerage conditions of consent are satisfied.</p> <p>In accordance with Section 307 Water Management Act 2000 Council may impose a requirement on the applicant to address outstanding matters. Where a matter remains, unresolved Council may be satisfied that a requirement has been complied with if the applicant lodges with the Council such security to cover the cost of ensuring full compliance.</p> <p>Condition Reason: To ensure the development is serviced by suitable water and sewer works plumbing and/or drainage works.</p> |
| 46.  | <p><b>Maintenance Bond – Civil Works</b></p> <p>A maintenance bond of 5% of final construction costs is to be paid to Council upon final inspection and approval of all civil works and prior to the issue of a Subdivision Certificate. 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</p>  |

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|     | <p>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>   |
|     | <p>Condition Reason: To ensure the road design complies with Council's Engineering Standards</p>   |
| 47. | <p><b>Stormwater Asset Maintenance and Security Bond</b><br/> 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 totalling 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 totalling the expected maintenance cost for (insert number of years maintenance has been contracted by developer) years is to be provided to Council prior to asset hand over.</li> </ul>   |
|     | <p>Condition Reason: To ensure the road design complies with Council's Engineering Standards</p>   |
| 48. | <p><b>Traffic Control Devices to be approved</b><br/> 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 Local Traffic Forum (formerly Traffic Authority Local Committee), and recommendation to Council for action. Approval can only be granted upon Council resolution.</p>  |
|     | <p>Condition Reason: To ensure the road design complies with Council's Engineering Standards</p>   |
| 49. | <p><b>Works as Executed Plans - General</b><br/> Works as Executed (WAE) Plans detailing all services and infrastructure are to be prepared by a registered surveyor or professional engineer, and submitted to Council. The WAE plans shall be lodged prior to the release of the linen plan. The applicant is required to submit three complete sets of hard copy plans (one A1-sized, two A3-sized) and one set of electronic plans in AUTOCAD format. Such plan must be lodged prior to the issue of a Subdivision Certificate.</p>  |
|     | <p>Condition Reason: To ensure works are constructed in accordance with this approval.</p>   |
| 50. | <p><b>Works as Executed Plans – Stormwater Assets</b><br/> 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> </ul> <p>A copy of all documentation, reports and manuals, technical guidelines for handover of stormwater management facilities (bioretention basin/swell) to Lithgow City Council.</p> |
|     | <p>Condition Reason: To ensure works are constructed in accordance with this approval.</p>   |
| 51. | <p><b>Compliance with Section 68 approval</b></p>  |

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|     | <p>Prior to the issue of any Subdivision Certificate, compliance with the terms of the S68 Approval must be completed to the satisfaction of Councils Water &amp; Wastewater Manager. Council's written approval must be obtained in this regard.</p>   |
|     | <p>Condition Reason: To ensure compliance with the Section 68 approval.</p>   |
| 52. | <p><b>Utility Services</b></p> <p>Utility service connections are to be provided and completed to each lot in accordance with the relevant telecommunications, electricity and gas 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>   |
|     | <p>Condition Reason: To ensure the proposal complies with Council's Engineering Standards</p>   |
| 53. | <p><b>Easements</b></p> <p>Prior to the issue of any Subdivision Certificate, easements shall be created on the plan of subdivision:</p> <ul style="list-style-type: none"> <li>• Right of carriageway</li> <li>• Easements for drainage</li> <li>• Any other easements identified during the construction process.</li> </ul>  |
|     | <p>Condition Reason: To ensure the proposal complies with Council's Engineering Standards</p>   |
| 54. | <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>  |
|     | <p>Condition Reason: To ensure the proposal complies with Council's Engineering Standards</p>   |
| 55. | <p><b>Hand over of stormwater assets</b></p> <p>All stormwater assets are to be handed over to Council prior to the Subdivision Certificate release. The following conditions must be met prior to asset handover:</p> <ul style="list-style-type: none"> <li>• Certificate that the asset has been constructed in accordance with the approved Subdivision Works Certificate plans</li> <li>• Work as Executed Drawings and engineering certifications have been provided</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 next condition.</li> </ul> |
|     | <p>Condition Reason: To ensure the road design complies with Council's Engineering Standards</p>  |
| 56. | <p><b>Telecommunication, Electricity and Gas</b></p> <p>The applicant shall consult with an Authorised Telecommunications, Electricity and Gas Authorities for the provision of underground telephone, electricity, and gas services to each allotment. Notification of Arrangement for provision to each allotment shall be lodged with Council prior to the issue of a Subdivision Certificate.</p>   |
|     | <p>Condition Reason: To ensure each allotment has relevant servicing</p>  |

## PRESCRIBED CONDITIONS

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| <p><b>PRESCRIBED CONDITIONS</b></p> <p><i>Environmental Planning and Assessment Regulation 2021</i></p> |
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| 58. | <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).  |
| 59. | <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.

### DEVELOPMENT CONTRIBUTIONS

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

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

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

### **REQUIRED INSPECTIONS – ROAD WORKS**

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:

- Following site regrading and shaping, and prior to installation of footway services;
- Installation of erosion and sedimentation control measures;
- Storm water drainage lines prior to backfill;
- Water and sewer lines prior to backfill;
- Testing of water and sewer lines;
- Subgrade preparation, before placing pavement;
- Establishment of line and level for kerb and gutter placement;
- Completion of each pavement layer ready for testing;
- Road pavement surfacing;
- Completion of works

The developer or contractor shall give Council a minimum 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 dockets for all materials used, and all material and performance test results obtained in the development.