

**DEVELOPMENT ASSESSMENT REPORT – DA094/19 -
CONCEPT DEVELOPMENT PROPOSAL: MULTI DWELLING
HOUSING (15 DWELLINGS), STRATA SUBDIVISION & 2 LOT
TORRENS TITLE SUBDIVISION INCLUDING STAGE 1 WORKS
(TORRENS TITLE SUBDIVISION, 3 DWELLINGS & STRATA
SUBDIVISION)
Tweed Road, Bowenfels - LOT 402 DP 1155154**

1. PROPOSAL

Council has received a development application on behalf of the owner of Lot 402 DP 1155154 (Tweed Road, Bowenfels) that seeks consent for the following:

- Concept development of the land in stages for multi dwelling housing (15 dwellings), the Strata title subdivision of the dwellings and the Torrens title subdivision of the land into two lots; and
- Stage 1 works of the above concept that is to include the subdivision of the land into two Torrens title lots, the construction of the first three dwellings and the Strata title subdivision of those dwellings.

As a concept development application, Council is to consider the general impacts and merits of the overall concept proposal and can grant “in principle” approval to the proposal subject to future, separate development applications for each stage of the development.

This concept development application also seeks consent for Stage 1 of the development as detailed above. If development consent is granted, this will include approval for the applicant to proceed to the commencement and completion of works for this stage. Each subsequent stage would be subject to a separate development application to Council for those works.

The legislative provisions for concept development proposals are detailed in section 4.21 of the *Environmental Planning and Assessment Act 1979* as follows:

4.22 Concept development applications

- (1) *For the purposes of this Act, a concept development application is a development application that sets out concept proposals for the development of a site, and for which detailed proposals for the site or for separate parts of the site are to be the subject of a subsequent development application or applications.*
- (2) *In the case of a staged development, the application may set out detailed proposals for the first stage of development.*
- (3) *A development application is not to be treated as a concept development application unless the applicant requests it to be treated as a concept development application.*
- (4) *If consent is granted on the determination of a concept development application, the consent does not authorise the carrying out of development on any part of the site concerned unless—*
 - (a) *consent is subsequently granted to carry out development on that part of the site following a further development application in respect of that part of the site, or*

(b) *the concept development application also provided the requisite details of the development on that part of the site and consent is granted for that first stage of development without the need for further consent.*

The terms of a consent granted on the determination of a concept development application are to reflect the operation of this subsection.

- (5) *The consent authority, when considering under section 4.15 the likely impact of the development the subject of a concept development application, need only consider the likely impact of the concept proposals (and any first stage of development included in the application) and does not need to consider the likely impact of the carrying out of development that may be the subject of subsequent development applications.*

Development application 094/19 has been assessed in accordance with the above and is recommended for determination as detailed in this report.

Concept Development

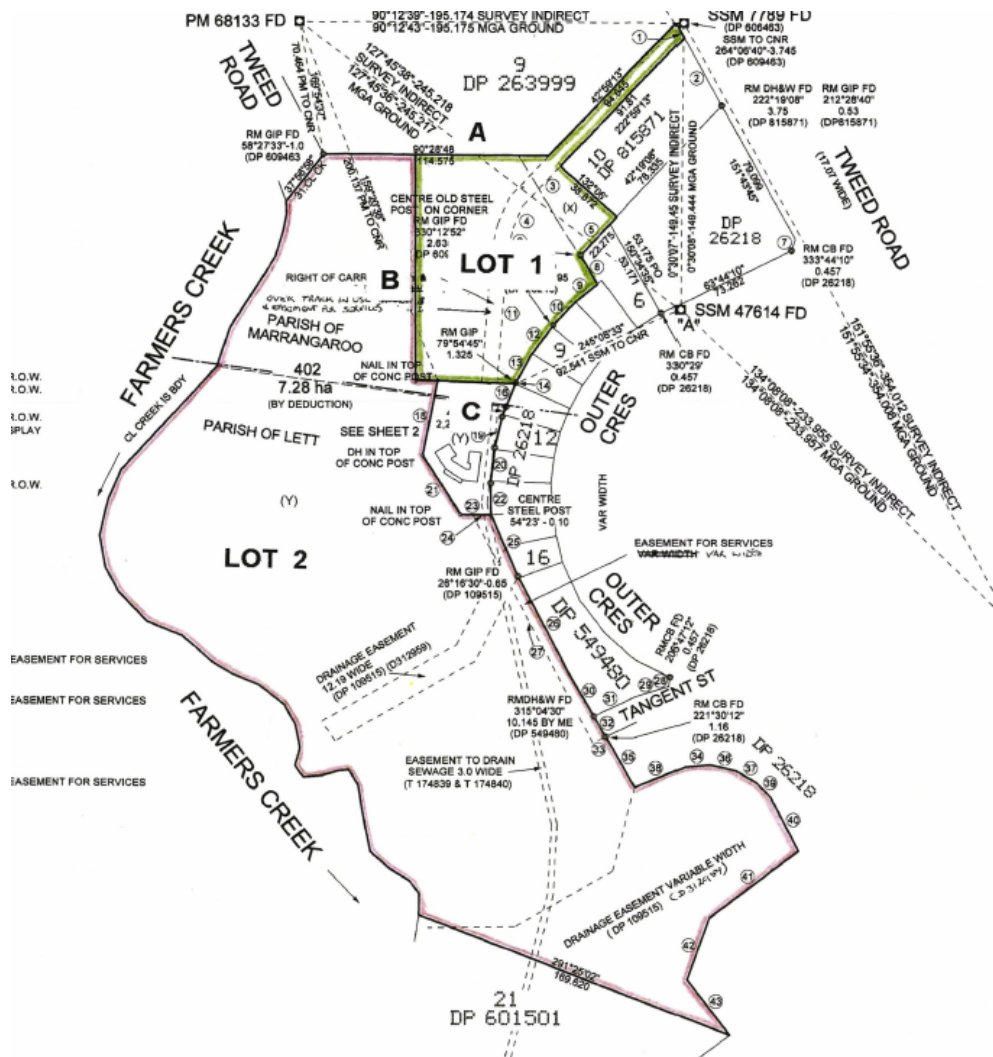
This aspect of the proposal seeks consent in accordance with the above legislative provisions for the “in principle” development of the land for a staged, multi dwelling housing residential development comprising 15 dwellings. These dwellings will be subsequently subdivided into separate lots in a Strata title scheme. The concept proposal also seeks consent to subdivide the overall land parcel into two Torrens title lots – one lot to contain the multi dwelling housing development and the other comprising the residual land. While Council will consider the overall general merits and impacts of the concept proposal as part of this application, each stage of the development will be subject to a separate development application process. The details and aspects of the subsequent development applications for each stage are to be generally in accordance with the approved concept proposal. The overall concept proposal is illustrated in the plan extract below:



Stage 1

This development application also seeks approval for Stage 1 of the concept proposal which includes:

- The Torrens title subdivision of Lot 402 into two lots to facilitate the multi dwelling housing development and create a residue lot (see plan extract below);
- Construction of the first stage of the multi dwelling housing development (3 dwellings) (see plan below);
- Construction of the internal access road, car parking and associated civil works for Stage 1; and
- The Strata title subdivision of Stage 1 dwellings.



Plan extract – proposed Torrens title subdivision

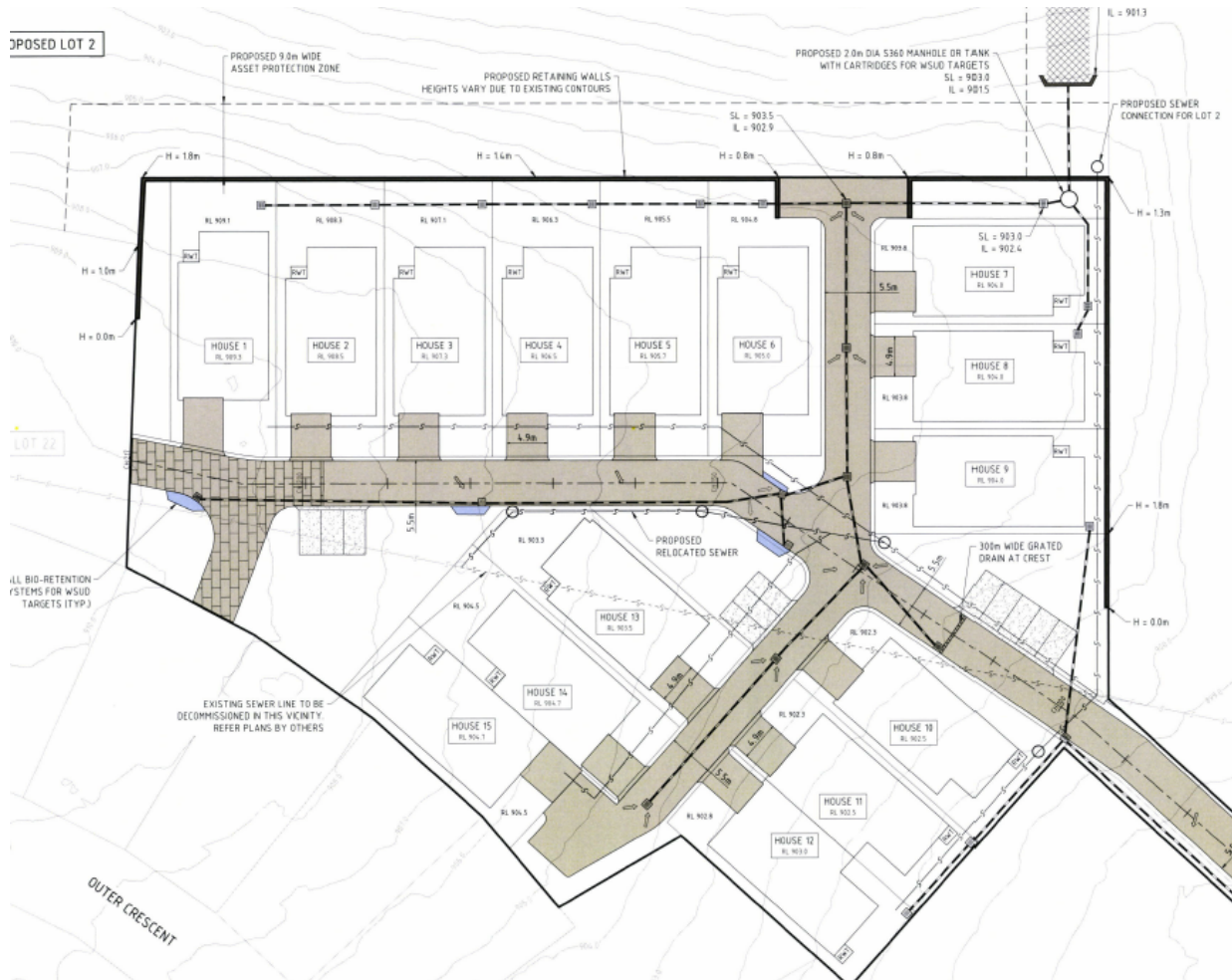


Extract from staging plan – Stage 1 works shown in green

Access to the land is via an 8m wide access handle from Tweed Road near its intersection with Caroline Avenue. This access also contains a right of carriageway that crosses the site providing access to an existing dwelling on Lot 401 DP1155154. This right of carriageway and access to Lot 401 will be maintained as part of the proposal. The current site access is illustrated in the image below. This access will be upgraded to an acceptable standard for multi dwelling housing.



The proposed dwellings consist of a mixture of single storey detached and semi-detached dwellings (11 detached and 4 semi-detached). Each dwelling contains three bedrooms and off street parking for 2 vehicles as well as areas of private open space for each. The development will include the provision of internal driveways, 11 visitor parking spaces and landscaping. Access and parking is illustrated on the plan extract below.



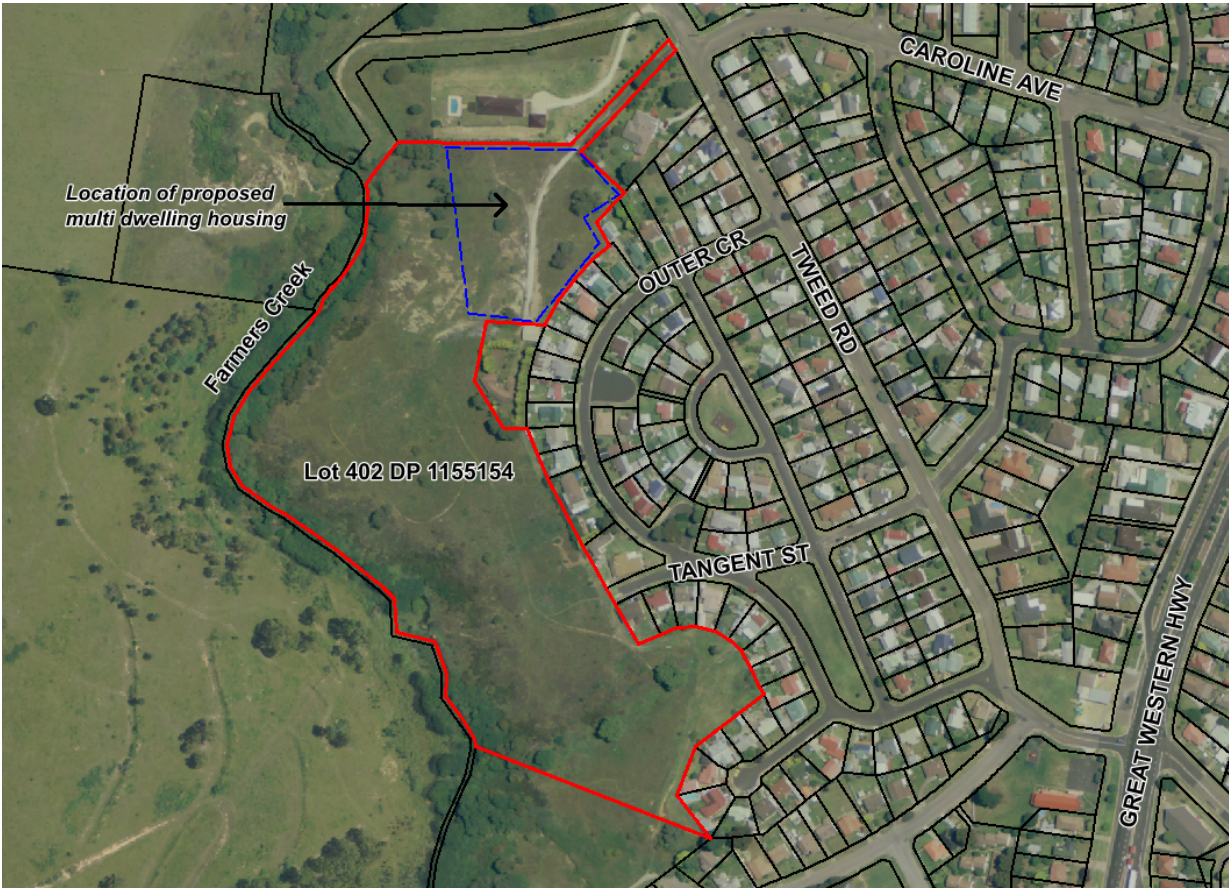
2. SUMMARY

To assess the impacts and merits of the proposal and recommend determination of DA094/19 by way of approval subject to conditions.

3. LOCATION OF THE PROPOSAL

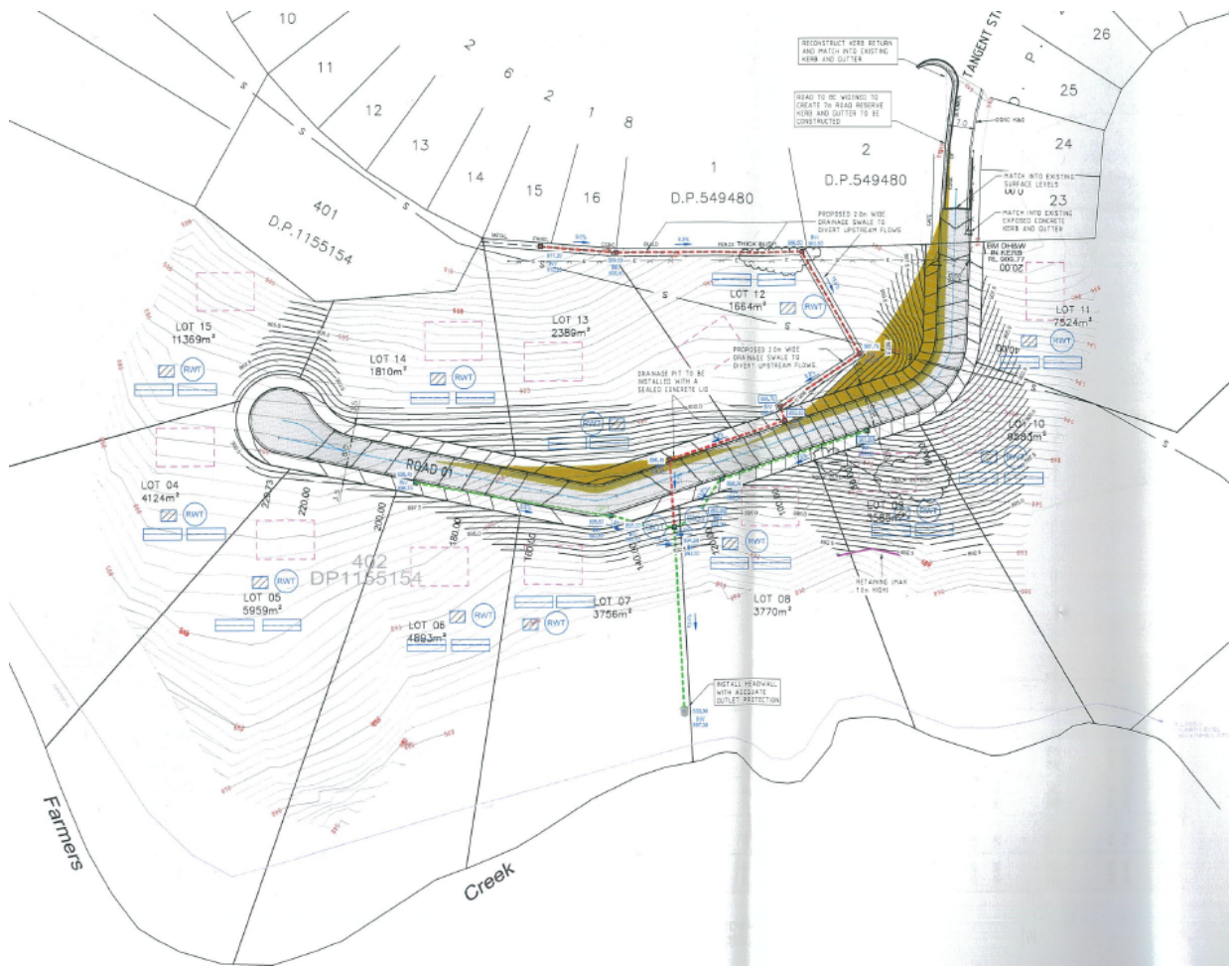
Legal Description: Lot 402 DP 1155154
 Property Address: Tweed Road, Bowenfels

The location of the proposal in context of its surrounds is illustrated in the map extract below:



The land is currently vacant, but part of the site was previously used as a gravel quarry that has since been filled. The land contains no buildings or other improvements other than the existing access track. There is scattered vegetation across the site, primarily comprising grassland and some trees. The land has a gentle upward incline from Tweed Road before levelling off and then dropping off steeply towards the west. Farmers Creek adjoins the land to the west and the rear of existing, established residential allotments facing Tweed Road and Outer Crescent adjoin to the to the east. As illustrated above, the allotment is irregular in shape and contains a total area of 7.28ha. Images showing current site conditions are provided below.

The land subject to this proposal has previous approval for residential subdivision into 12 large residential lots. This subdivision was approved in DA 248/14 on 26 February 2016 by the Land and Environment Court. The proposed development being considered in DA 094/19 is generally consistent with this subdivision layout and will not compromise the future subdivision of the land in accordance with the approval in DA 248/14. The approved subdivision of the land affects mainly the southern and western part of the land with access proposed as a continuation of Tangent Street. An extract of the approved plan of subdivision for DA 248/14 is provided below. The multi dwelling housing proposed in DA 094/19 is located in the top left corner of this plan.



Extract from approved plan of subdivision – DA 248/14



General site conditions (existing) near the centre of the multi dwelling housing proposal (facing north east)



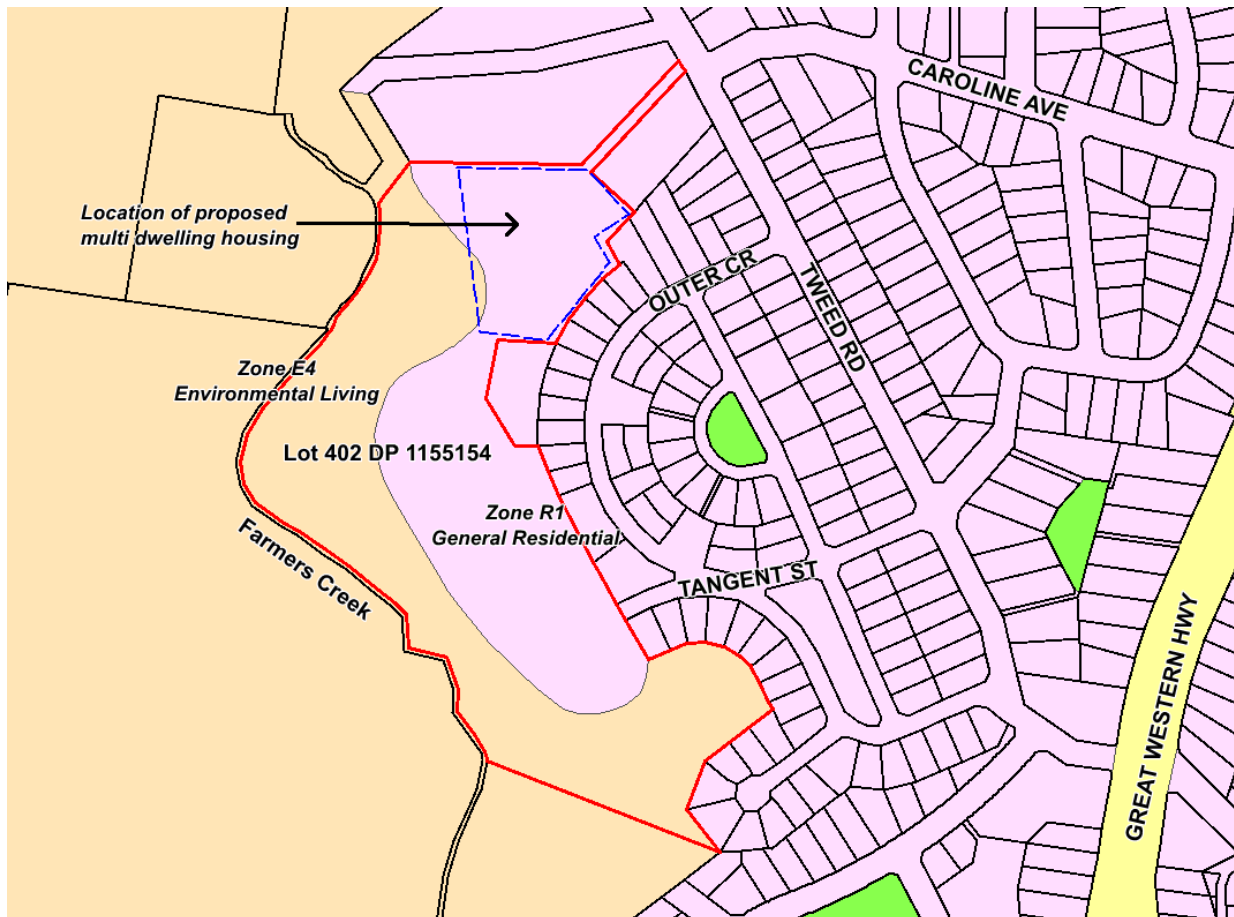
General site conditions (existing) near the top of the access handle (facing south west)



Interface of the site with existing dwellings (facing north east)

4. ZONING

The land is zoned part R1 General Residential and part E4 Environmental Living under the *Lithgow Local Environmental Plan 2014*. The zones are shown on the map extract below:



The multi dwelling housing component of the proposal is located fully within the R1 General Residential zone.

5. PERMISSIBILITY

The concept proposal for multi dwelling housing is permitted with consent in the R1 General Residential zone. Multi dwelling housing is defined in the LEP as detailed below.

Multi dwelling housing means 3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building.

The proposed Torrens title and Strata title subdivision of the land in Stage 1 can be granted development consent under the provisions of LEP clause 2.6.

5.1 POLICY IMPLICATIONS (OTHER THAN DCP's)

Policy 7.5 Notification Of Development Applications

This application was notified under the provisions of this Policy in force at the time of lodgement. This policy has since been repealed by Council and replaced by the Lithgow Community Participation Plan.

Notification of the development application was provided to adjoining landowners and details of the proposal placed on public exhibition for 21 days. Several submissions were received in response to the public exhibition of the proposal as detailed elsewhere in this assessment report.

Policy 7.7 Calling In Of Development Applications By Councillors

While this application has not been called in, it is proposing a Voluntary Planning as well as having received a number of public submissions objecting to the proposal. For these reasons, the application is being reported to an Ordinary Meeting of Council for consideration and determination.

The application was first reported to Council's Ordinary Meeting on 27 July 2020 with the following resolution:

20 -168 RESOLVED

That:

- 1. The matter be deferred until a site inspection is carried out with Councillors, Staff, Applicant and affected landowners.*
- 2. The Administration amend the Development Application report to go to the next available meeting, ensure greater clarity concerning issues pertaining to access and contain full detailed plans of the three proposed dwellings.*

The site inspection was undertaken on Friday 15 August 2020 at the property with the applicant's representatives, Councillors, Council staff and nearby residents in attendance.

Policy 7.10 Voluntary Planning Agreements

A Voluntary Planning Agreement (VPA) has been negotiated with the developer in accordance with Section 7.4 of the *Environmental Planning & Assessment Act 1979* in relation to this proposal. The developer has agreed to make a contribution of \$5,000.00 per dwelling/strata lot (total of \$75,000 for the 15 dwellings) to go towards community facilities and public open space.

5.2 FINANCIAL IMPLICATIONS

Development Servicing Plan for Water & Sewerage

Due to the increased demand on infrastructure services, the development will be levied charges under Council's Development Servicing Plan for Water & Sewerage 2018 (DSP) and section 64 of the *Local Government Act 1993*. These charges will be payable prior to the issue of an Occupation Certificate for each stage of the development.

Planning Agreements

A Voluntary Planning Agreement (VPA) has been negotiated with the developer in relation to this proposal. The developer has agreed to make a contribution of \$5,000 per lot to go towards community facilities and public open space.

5.3 LEGAL IMPLICATIONS

Conveyancing Act 1919

There is currently a Right of Carriageway (ROW) burdening the land providing access to an existing dwelling on Lot 401 DP 1155154. This ROW will be preserved and maintained to the benefit of the owner of Lot 401 throughout the development process and recognised in the final Strata subdivision plan for the land.

Local Government Act 1993

If approval of this application is granted, the applicant will be required to obtain approval for connection to Council's water and sewerage supply and the submission of detailed engineering drawings/design, specifications and any applicable supporting information for the proposed works. Works are required to be completed to the satisfaction of Council as the water authority prior to occupation or subdivision as relevant.

Biodiversity Conservation Act 2016

The vegetation affected by the proposal has not been identified having biodiversity significance and its removal will not impact on threatened species or their habitat. The Biodiversity Offset Scheme requirements under this Act are not triggered.

The area of the land adjacent to Farmers Creek is identified in the LEP as having biodiversity significance (the vegetated riparian corridor). No aspects of the development proposal will directly impact on the identified area of biodiversity significance.

Rural Fires Act 1997

The proposal requires approval as a "special fire protection purpose" under section 100B of this Act. Because of this, the development is "integrated development" under clause 4.46 of the *Environmental Planning and Assessment Act 1979*.

The application was referred to the NSW Rural Fire Service who issued a Bushfire Safety Authority under section 100B of the *Rural Fires Act 1997* on 31 July 2019. This includes conditions of consent that have been included in Schedule A. A copy of the Rural Fire Service response and Bushfire Safety Authority is included in Schedule B.

Environmental Planning and Assessment Act 1979

In determining a development application, a consent authority is required to take into consideration the matters of relevance under Section 4.15 of the *Environmental Planning and Assessment Act 1979*. These matters are as follows:

1(a)(i) the provisions of any environmental planning instrument

State Environmental Planning Policy (Koala Habitat Protection) 2019

The provisions of this SEPP apply to land with an area greater than 1 hectare and that contains land identified on the Koala Development Application Map. An extract of this map is provided below:



■ Koala Development Application Map

■ Site Investigation Area for Koala Plans of Management

Clause 9 of this SEPP requires the assessment of a development application to consider the requirements of the Koala Habitat Protection Guidelines.

The development of the site will require the removal of several established native trees that comprise potential koala habitat and feed trees. The Guidelines require development applications which are likely to impact koalas and/or koala habitat to address 9 criteria for assessing impacts as detailed below. This assessment satisfies the requirements of the SEPP and confirms potential impacts on koalas and their habitat will be minimised, mitigated and avoided.

Guideline Assessment Criteria	Comments
Criteria 1. The site is established as core koala habitat if it occurs on the Koala Development Application Map or by undertaking a site area survey undertaken in accordance with the methods outlined in Appendix C of this Guideline.	Parts of the land subject to the proposed development are identified on the Koala Development Application Map (see above). However, the vegetation affected by the development is not considered significant koala habitat.
Criteria 2. Further analysis is undertaken in order to understand the broader values of the core koala habitat, including information about the koala population using the habitat and any specific ecological functions the habitat might serve.	The affected vegetation on the site is fragmented and isolated and does not comprise core koala habitat and is unlikely to serve any significant ecological functions for koala populations.
Criteria 3. Site selection takes into account koala habitat values.	See above. The affected vegetation is on some of the least affected parts of the site.

Guideline Assessment Criteria	Comments
Criteria 4. Development avoids the direct loss of koala habitat within the site area and avoids fragmentation.	See above. The affected vegetation is not considered significant koala habitat.
Criteria 5. Koala habitat is excluded from the development footprint.	See above. The affected vegetation is not considered significant koala habitat.
Criteria 6. Development avoids direct impacts to koala habitat within the site area.	See above. The affected vegetation is not considered significant koala habitat.
Criteria 7. Where some loss of habitat cannot be avoided (and providing it is consistent with all other criteria set out here), development is designed in a way that retains higher value areas across the site and avoids fragmentation of habitat within the site area and more broadly within the region.	Vegetation on other parts of the site, particularly within the riparian areas along Farmers Creek comprise higher quality and greater potential for koala habitat. These areas will be maintained and rehabilitated as part of the development proposal. In this regard, an overall positive outcome for potential koala habitat will be achieved by the development/
Criteria 8. Development is undertaken in a way that maintains the potential function of the koala habitat.	See above. The affected vegetation is not considered significant koala habitat and will not directly affect the potential function of koala habitat.
Criteria 9. All relevant indirect impacts to koalas and koala habitat associated with the development are identified.	The proposal essentially comprises urban infill development and is not expected to exacerbate significantly any indirect impacts to koalas or koala habitat.

State Environmental Planning Policy No 55—Remediation of Land

The land has previously been subject to quarrying activities. Because of this, a detailed site investigation was undertaken by and submitted in support of the proposal in accordance with the contaminated land management guidelines to determine the soil contamination of the site.

The investigation area contained a quarry which was filled predominantly with coal wash and capped with silty sand topsoil before 1970. Some small areas of industrial waste and metal filings were suspected of being in the quarry fill. No evidence of contaminating activities was obtained for the non-quarrying area. The report recommends the identified contaminants be removed from the site for proper disposal. It also recommends that a geotechnical investigation be required to determine the suitability of the overburden material for footings.

Based on the above recommendations, should approval be granted, consent conditions shall require the removal of identified contaminants from the site, the remediation of the site and its validation in accordance with the EPA Guidelines prior to the issue of a Subdivision Certificate for the Stage 1 Torrens title subdivision.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

The application has been submitted with a BASIX certificate for the Stage 1 dwellings and complies with the requirements of this SEPP.

State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011

Being development within the Sydney Drinking Water Catchment, it is required to demonstrate a "neutral or beneficial effect" on water quality can be achieved. The development application was referred to Water NSW for concurrence in accordance with this SEPP.

Water NSW have advised that they are satisfied the proposed development can achieve a neutral or beneficial effect (NorBE) on water quality provided appropriate conditions are included in any development consent and are subsequently implemented.

Water NSW notes that proposed development application seeks consent for Stage 1. Stages 2 to 4 will be subject to separate development applications. Water NSW has assessed the potential water quality impacts of the development in its entirety, as well as Stage 1 only.

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

Lithgow Local Environmental Plan 2014

LEP 2014 – Compliance Check		
Clause		Compliance
Land Use table	R1 General Residential	Yes
Land Use table	E4 Environmental Living	Yes
4.1	Minimum subdivision lot size	Yes
4.1A	Minimum lot sizes for dual occupancies, multi dwelling housing and residential flat buildings	Yes
7.1	Earthworks	Yes
7.2	Flood Planning	Yes
7.3	Stormwater management	Yes
7.5	Groundwater vulnerability	Yes
7.6	Riparian land and watercourses	Yes
7.7	Sensitive lands	Yes

The objectives of the R1 General Residential zone are:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provides facilities or services to meet the day to day needs of residents.*
- *To maintain or improve the water quality of receiving water catchments.*

The development will provide for the housing needs of the community by including a mix of housing types in the form of medium density development. The surrounding development is typical of residential developments with dwellings and some vacant land. The property is surrounded by residential allotments to the east and a waterway and rural property to the west. Water quality was assessed by WaterNSW, who have recommended measures and conditions to be included on the consent.

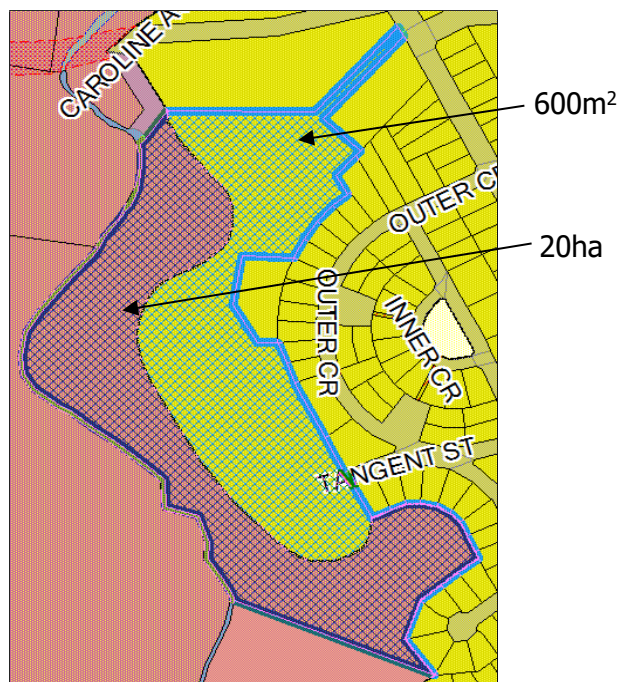
The objectives of the E4 Environmental Living zone are:

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*
- *To ensure that residential development does not have an adverse effect on those values.*
- *To maintain the rural character of the land in the zone while preserving the land for future urban growth.*
- *To ensure that development does not create unreasonable and uneconomic demands for the provision or extension of public infrastructure, amenities and services.*
- *To maintain or improve the water quality of receiving water catchments.*

The land has an area of 7.28ha and is currently vacant. The development will be generally compatible with adjoining land uses being for residential purposes. The development is not expected to impact services or facilities in the area as all services exist within the vicinity of the property. The E4 zoning area will remain as open space land. The proposed development will maintain the ecological and aesthetic features of the area while providing a limited range of developments in the E4 Environmental Living zone. The development has been designed to have a neutral or beneficial effect on water quality subject to conditions of consent being imposed.

Minimum Lot Sizes

Clause 4.1 provides minimum lot sizes for subdivision as prescribed on the Minimum Lot Size map (see extract below). This specifies a minimum lot size of 600m² for the R1 zoned area and 20 hectares for the E4 zoned area. The proposed Stage 1 Torrens title subdivision does not comply with this requirement with proposed Lot 1 having an area of 1.05 hectares and proposed Lot 2 having 6.23 hectares. However, there are special provisions in the LEP for "split zones" in clause 4.1B which are addressed further below.



Clause 4.1A of the LEP specifies minimum lot sizes for certain medium density residential development to achieve a planned level of residential density. Proposed Lot 1 (which will

contain the multi dwelling housing) has an area exceeding 800m² and complies with the requirements of this Clause.

Clause 4.1B of the LEP contains provisions for minimum sizes for lots in certain split zones. This clause allows for the subdivision of the land within the E4 Environmental Living zone into a lot less than the specified minimum lot size where the R1 zoned part of the land has an area not less than the specified minimum lot size and all the land within the E4 zone is contained within one lot. The proposal complies with this requirement and consent can be granted under the provisions of this Clause.

Earthworks

Clause 7.1 of the LEP contains provisions to regulate earthworks where these are associated with a development application. The development will require some earthworks (cut and fill) to facilitate the construction of the multi dwelling housing.

The extent of cut and fill proposed is illustrated on the plan extract below (filling shown in dark and excavation shown in light). Some of these earthworks will be undertaken as part of Stage 1 works, while the remainder will only be necessary upon subsequent approval and construction activity for later stages.

Retaining walls will be located along the northern, southern and western boundaries of proposed Lot 1. The height of the retaining walls will be varied due to the site contours. The maximum height of the retaining walls is 1.8m.

These earthworks are considered acceptable in association with the proposed development and are generally consistent with the requirements of Clause 7.1



Flood Planning

Clause 7.2 of the LEP contains provisions affecting flood prone land. The subject land is identified as flood affected along the foreshore of Farmers Creek. None of the proposed dwellings are close to the waterway or are within the flood affected area and the proposal is generally consistent with the requirements of this clause.

Stormwater Management

Clause 7.3 contains provisions relating to stormwater management for development on urban land. A stormwater management plan has been submitted with the application and is conserved appropriate and practicable and will minimise impacts of stormwater runoff through design and conditions of consent if approved.

Groundwater Vulnerability

Clause 7.5 of the LEP contains provisions relating to the protection of areas identified as having groundwater vulnerability. The subject land is within the identified groundwater vulnerable area. The development is not expected to impact on groundwater resources or groundwater dependent ecosystems and satisfies the requirements of this clause.

Riparian Land and Watercourses

Clause 7.6 of the LEP applies to land identified as containing sensitive riparian corridors and watercourses. Because the land adjoins Farmers Creek, it is partially affected by the requirements of this clause. However, the proposed dwellings will be located over 100m away from the waterway with no negative impacts expected.

Sensitive Lands

Part of the land is mapped under the provisions of Clause 7.7 of the LEP as containing "sensitive lands" which seek to protect, maintain and improve the diversity and stability of landscapes. The subject land is identified due to its relatively steep slope towards Farmers Creek. The location of the multi dwelling housing is outside the areas of steep slope on the land and the development is not expected to unreasonably impact on the identified sensitivities of the land.

Essential Services

Clause 7.10 of the LEP requires the consideration of essential services for development proposals. The proposal includes provision of reticulated water and sewer services through upgrades of existing systems of the area. Additionally, the proposal will be required to connect to electricity and will have adequate road access to each allotment. The proposal will meet all requirements for essential services in relation to the development.

Adequate conditions will be placed on the consent to ensure that all lots/dwellings will be adequately serviced prior to the issue of the subdivision certificate (strata).

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

Nil.

5.3.3 Any Development Control Plan

Nil.

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

A Voluntary Planning Agreement (VPA) has been negotiated with the developer in relation to this proposal. The developer has agreed to contribute \$5,000 per lot to go towards community facilities and public open space. A condition will be incorporated into the consent indicating the basic terms.

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

The proposal will comply with the all applicable regulatory provisions of the subject to conditions of consent.

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

Adjoining Landuse: The surrounding development is typical of residential development on the urban fringe with dwellings and some vacant land. The property is adjoined by existing residential allotments to the east and Farmers Creek to the west (beyond which is land utilised for rural purposes).

The closest setback (dwelling number 15 and dwelling number 12) is approximately 1m from the nearest residential boundaries. Beyond this setback are the rear yards of existing residential properties.

The proposed development will not overshadow the adjoining properties or impact on privacy as it is single storey (height approximately 3.1m) and stepped with the slope of the land. Fencing and landscaping is located around the boundaries of the property that will minimise privacy impacts.

Landscaping is proposed to be undertaken around the boundaries and throughout the site. This is considered adequate for the development and would help to minimise visual and noise impacts to surrounding residential land.

Due to the topography of the land, the dwellings will be stepped down throughout the site. The dwellings and the subdivision will have minimal impact on adjoining properties in terms of built form.

Services: The development will be connected to the public reticulated sewer and water network, electricity and telecommunications networks. Relevant service providers have been consulted as part of the assessment of the proposal with no objections raised.

Context and Setting: The development is located on urban zoned land on the fringe of an established residential area. The development has been designed to complement existing features of similar development in the area and is considered generally appropriate in the context and setting of the location.

Access/traffic/carparking: Access to the multi dwelling housing development is via an 8m wide access handle off Tweed Road near its intersection with Caroline Avenue. This access arrangement is considered suitable for the proposal.

The development has been designed with access to accommodate a garbage truck with provision of manoeuvring areas to enable entry and exit in a forward direction.

The proposed dwellings incorporate twin garages for each dwelling plus 11 visitor car parking spaces which is considered adequate for the development.

There is an existing footpath along the Tweed Road site frontage. This pedestrian footpath would be maintained and not impacted upon by the development.

The matter of "battleaxe lots" and the existing right of way (ROW) has been raised as a potential issue for the development given the primary access to the proposed multi dwelling housing via a 8m wide access handle. The guidelines contain provisions that discourage new subdivisions creating battleaxe lots & ROWs (i.e. new lots without street frontage accessed via an access handle). The battleaxe & ROW restrictions in the guidelines are considered not applicable to this development. The current access arrangements to the land are existing (no new battleaxe lots or access handles are proposed) and is considered suitable to enable adequate access to the development proposed.

The development proposed is generally acceptable from a traffic access and civil infrastructure design perspective. Council's Infrastructure directorate has been consulted as part of this assessment and have recommended approval subject to conditions of consent (see Appendix A).

Amenity: The development is for the concept approval of multi dwelling housing (12 dwellings) including the Torrens title subdivision of the land (2 lots) and the subsequent Strata title subdivision of the dwellings. Stage 1 of the proposal, for which consent is concurrently sought, includes the Torrens title subdivision, the first three dwellings (and their Strata subdivision).

No unreasonable amenity impacts are expected from the proposal or the Stage 1 works. The development is within an area zoned for residential purposes. Fencing, landscaping and general development of the site, including street lighting and trees will minimise the overall impact of the development. In relation to privacy this should not be compromised as it is a development for residential purposes adjacent to existing residential and rural uses.

Safety and security: The proposal was referred to the NSW Police Crime Prevention Officer for comment who responded with a range of recommendations and suggestions. These recommendations have been incorporated into consent conditions where appropriate.

Heritage: The property is not heritage listed under the LEP; however, the development adjoins a listed heritage item known as Braemar House.

Braemar House was previously known as Lithgow Woollen Mill. It is sited on rising ground near Farmer's Creek, the house is brick constructed and contains an unusual design, despite infill of modern housing, is a significant element of the cultural landscape. Braemar became the home of successive managers right up to the closure of the Lithgow Woollen Mills in 1973.

Braemar House is a large single storey residence, 'T' shaped in plan symmetrical with hipped roof (with gablets) extending at lower roof pitch over verandahs. Verandahs are located at the front and partially on two other sides. Polychrome brickwork with expressed quoins. Timber verandah posts with timber profiled brackets. Chimneys also symmetrically placed. Casement windows some with awnings over.

The development backs on to Braemar House with access via an existing driveway between Braemar House and number 52. The multi dwellings are proposed to be of single storey with pitched roofs. The designs of the dwellings are of a contemporary nature, similar to other dwellings that surround the property. The dwellings are masonry with Colorbond roofs with muted colour schemes. The development proposes landscaping along the driveway and around the site to minimise the impact to Braemar House. This creates adequate screening between the properties. As the development is located behind the existing dwellings and does not have direct frontage to Tweed Road, the development is not expected to negatively impact on the character of the heritage item.

Flora and Fauna: The land contains primarily grassland with scattered native vegetation at various locations. The site of the proposed development contains some native vegetation, which has not been identified as having particular biodiversity significance. The proposal is not expected to directly impact on significant flora or on the habitat of fauna.

Social and Economic Impact: Generally positive social and economic impacts are expected. The development will be generally in keeping with the provisions of the planning instrument and is reasonably compatible with other similar development in the locality.

Soils: Standard site management conditions will be imposed to mitigate any impacts on soils or from soil erosion during construction works. As identified earlier in this report, the land has previously been subject to quarrying and has been identified as containing some small areas of industrial waste. Further remediation is required to remove the identified contaminants before the land can be considered suitable for residential use.

Water: The proposed development has been assessed using the NorBE tool as required by the *State Environmental Planning Policy (Sydney Catchment Drinking Water) 2011* and has been referred to Water NSW for concurrence. Subject to conditions, the development will not result in any unreasonable negative impacts on water quality.

Air and Microclimate: There will be no significant impact on air or microclimate.

Natural Hazards: The land is identified as being both bushfire prone and flood prone. A bushfire report was submitted with the application and has been referred to the NSW Rural Fire Service for a "bushfire safety authority" under the *Rural Fires Act 1997*. The flood prone area of the site is along the foreshores of Farmers Creek, which is well clear of the proposed development. No impacts on flooding or by flooding of the development is expected.

Noise and Vibration: No negative impacts expected. Standard regulatory conditions for construction activity will be imposed.

5.3.7 The Suitability of the site for the development

The land is currently zoned for residential purposes and is generally considered suitable for residential development to provide for the housing needs of the community.

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

The application was referred to Water NSW, NSW Rural Fire Service, NSW Crime Prevention Officer – NSW Police, Endeavour Energy, Council's Building Officer, Water & Wastewater Officer, and Engineering Officer for review and comment. Details of their responses are included in this report as relevant. Notification of the application was also provided to surrounding landowners

and details of the application placed on public exhibition at Council's customer service counter for a period of 21 days. Four individual submissions have been received in response as well as a petition containing 18 signatures. The issues raised in the submissions are addressed below.

PUBLIC SUBMISSIONS

During the notification period four individual submissions were received including 18 signatures and comments on a petition on one of the submissions received. The concerns raised in the submissions are itemised below.

Issue Raised	Assessment Comments
The Right of Carriageway at Tweed Road is not wide enough for passing traffic,	The width of the access handle to the land is 8 metres which will contain the private driveway access to the development. This is considered of sufficient width to accommodate the access needs of the development. Access and parking for the development will be required to comply with Australian Standard 2890.1:2004 Parking facilities – off street parking. This standard specifies a minimum driveway width of 5.5 metres for a development of this nature to enable two-way driveway access.
Insufficient space for parking/loading/turning,	The development will provide adequate parking and access arrangements (two spaces for each dwelling and 11 visitor spaces overall) and is detailed on the civil engineering details submitted in support of the application. Compliance with applicable Australian Standards will be achieved. The manoeuvring area within the development has been assessed by Council's Infrastructure directorate and is considered acceptable.
Insufficient space for garbage service vehicles to manoeuvre if using proposed access roads,	The civil engineering design plans submitted with the application show sufficient space on site for vehicle turning bays. Compliance with Australian Standards will be achieved with regard to access, vehicle manoeuvring and parking.
Insufficient kerbside space for 15 extra garbage bins if garbage service was unable to use access road,	Confirmation has been provided that Council's waste service contractor will be able to enter and exit the site in forward direction to enable domestic waste collection from the dwellings. There will be no waste collection necessary for the development from Tweed Road.
Present pump station at the end of Tweed Road is already overloaded and requires constant maintenance,	Council's Water & Wastewater officer has assessed the proposal and confirms that the existing sewer infrastructure is sufficient to accommodate the demands of the development. Council is currently spending \$850,000 to upgrade this pump station as part of the South Bowenfels upgrades. Water and sewer headworks charges will be levied on the development that will go towards future service upgrades in the area.
If works are required to upgrade the existing right of carriageway, then this will restrict access to the current users to access their properties.	The existing right of carriageway will be retained and maintained as part of the development. Full and free access from Tweed Road to Lot 401 will be maintained in accordance with the existing ROW arrangement.

Issue Raised	Assessment Comments
Loss of 3 very large habitat trees on the eastern side of proposed Lot 1,	Some existing vegetation on the site will be removed as part of the development. This vegetation is not identified as having particular biodiversity significance. If approved, the development is conditioned to require the implementation of a Vegetation Management Plan for the riparian areas of the site to improve and enhance areas of identified biodiversity significance.
Loss of 2 large red ironbark trees on Western side of proposed Lot 1	See above.
There are two mature paddock trees in the middle of the site that are an important part of the visual landscape and are habitat for possums and other active wildlife,	See above.
Loss of habitat for native birds and animals, including echidnas,	Some existing trees and grassland will be lost as part of the development (see above). This vegetation is identified as having any particular biodiversity significance. Additional landscaping proposed will increase and enhance the visual and ecological appeal of the site.
Gang-gang cockatoos are listed as vulnerable, inhabit this area during their annual migration. Kookaburras and other animal habits have also been witnessed in the area,	While some species may transition through the site, the land subject to the development proposal does not comprise any significant habitat (see above). Additional landscaping will increase and enhance potential habitat and roosting areas for transiting bird life.
The western side of proposed Lot 1 has been used in the past as a quarry/tip,	The location of the quarry and past uses of the land has been acknowledged in both the development application and Council's assessment. In accordance with contaminated land assessment requirements, the identified contaminants will be removed and the site remediated and made suitable for residential use as part of the development proposal.
Dust pollution from constant traffic up and down access driveway,	Some short term dust nuisance may occur during earthworks and construction activities. These will be regulated through consent conditions. Once constructed the driveway access would be sealed and dust nuisance avoided.
Significant increase in traffic generation,	The traffic report submitted with the application indicates approximately 135 additional trips per day and 13 trips per hour. The existing road network is considered suitable to accommodate the additional traffic demand.
Loss of privacy,	Privacy will be enhanced and maintained as part of the development. Due to the nature of the site and the design of the dwellings, no unreasonable privacy or overlooking impacts are expected.
Loss of security to personal properties	Generally, new residential development is not expected to materially increase or decrease security risk to existing private properties.
The proposed density is overdevelopment, with the proposed dwellings impacting adjoining properties in terms of privacy and visual impacts.	The scale of the development is generally acceptable for the site and complies with the applicable regulatory requirements. The development has also allowed for landscaped areas, visitor parking and

Issue Raised	Assessment Comments
	vehicle turning areas. Private open space areas for each dwelling are also considered to be satisfactory.
There would be impacts to Farmers Creek and the wildlife in the area,	The development is located well clear of Farmers Creek and will not directly impact the waterway.
Loss of views to the creek,	Some view loss is expected. However, as previously stated, the area is zoned for residential purposes and the development has been designed to avoid and minimise the visual impacts to existing dwellings and their views to the creek. There are openings between the dwellings so that this can still be achieved.
Out of character for the area,	The development is permitted with consent in the zone and is of a scale and nature that is generally compatible with the residential nature of the R1 zone. The development has been designed having a bulk and scale that respects the existing built form while providing for increased density.
The proposed development is inconsistent with Council's vision statement; <i>'balancing, protecting and enhancing our diverse environmental elements, both natural and built'</i> ,	The proposal is providing for housing needs in the community by proposing a mix of housing types in the form of medium density development and is consistent with the objectives of the R1 General Residential zone and the aims of the <i>Lithgow Local Environmental Plan 2014</i> .
The proposed development is inconsistent with Council's vision statement; <i>'celebrating, protecting and sustaining our unique industrial and natural heritage, its cultural landscapes and its built heritage.'</i>	See above.
The site is rare and unique to the Lithgow area as it contains a rural outlook and is within a short distance to Lithgow's CBD. The change in use to the site would destroy its unique natural environment that residents in the area have tried to restore overtime.	The development proposes to utilise a small section of the area for residential purposes consistent with the land's zoning. The rural outlook would still be maintained for majority of the site.
The development is in proximity to a heritage item that contains heritage significance to the area.	A heritage report was undertaken and submitted with the application. The new development backs on to Braemar House with access via an existing driveway. The development is adequately screened from the heritage item and will not detract from the character of the item.
Devaluation of homes,	This has not been substantiated and is not a valid consideration for a development application under the <i>Environmental Planning and Assessment Act 1979</i> .
Services such as water, sewer, electricity, gas and phone would be located within the proposed carriageway. If these services require maintenance and the roadway is closed, emergency services would not be able to respond to emergencies within the development site.	Servicing will be provided to the development in accordance with the relevant utility authority's requirements.
The services within Tweed Road, including adjoining property water meters, pipework and telephone cabling, would also be required to be relocated for the development. The development would require	Fencing, utilities and access arrangements will be undertaken in consultation with affected landowners and in accordance with utility providers requirements. No unreasonable impacts from the

Issue Raised	Assessment Comments
the removal and reinstallation of an adjoining properties rural fence, cattle ramp.	augmentation and upgrade of utility services and fencing is expected.
The access has flooding and gradient concerns.	The location of the development is not identified as an area subject to flooding. Infrastructure and access will be designed to accommodate adequate stormwater management.
Traffic control at the intersection of Tweed Road and Caroline Avenue will present a T and a 4 way intersections within 20m of each other. The very narrow Outer Crescent and Tangent Street which is near impossible to be unpassable when 2 vehicles are parked either side of the road and a car travelling in each direction on the crest of a hill, curves and blind spots meet. The additional road usage would impact safety concerns.	The development has been assessed by Council's Infrastructure directorate and is considered adequate for the development subject to conditions being implemented on the consent. Council engineering officers have assessed the Tweed Road/Caroline Avenue intersection and will implement basic safety upgrades to improve road safety.
The site was previously used as a quarry and as a dumping ground for waste material such as ash, steel, concrete, fibre piping and an unknown quantity and type off 44 drums of fluids. Asbestos and other contaminates would be identified on the property due to the previous uses.	Contamination has been addressed above. The applicant will be required to remediate the site as part of the development approval.
The property currently contains overgrown vegetation, weeds and vermin. This has potential issues of fire threat. The soil has been leached by these contaminates along with coal refuge. If disturbed by earthworks the leaching will impact on Farmers Creek. The threat of exposing the coal refuge and allowing oxygen to migrate into it may cause a spontaneous combustion/heating event or methane gas from the waste beneath could be present.	Council is satisfied with the contamination investigation reports undertaken. Consent will include requirements for the adequate level of remediation to enable the proposed use of the land.
The natural aesthetics will no longer exist, drainage and run off concerns, additional home and street lighting, noise and traffic issues.	Stormwater drainage, management and treatment is proposed and is satisfactory to Council and Water NSW. Internal lighting will be provided and conditioned to comply with acceptable standards. Noise and lighting impacts will be ameliorated through built form and landscaping. Traffic impacts have been assessed and are considered acceptable.

5.3.9 The public interest

The public interest is best served by the orderly and economic use of land for permissible uses in a form which is cognisant of and does not impact unreasonably on the use and development of surrounding land.

Subject to appropriate regulation and conditions, the proposed development will result in an orderly and economic use of the land and its surrounds. Because of this, the proposal is considered to be in the public interest

6. DISCUSSION AND CONCLUSIONS

The proposal has been assessed and will generally comply with the relevant provisions of all applicable Environmental Planning Instruments. The proposal is will not result in any unreasonable negative impacts upon the environment or upon the amenity of the locality. It is recommended that the development be determined by way of approval subject to the consent conditions in Schedule A.

7. ATTACHMENTS

Schedule A – Recommended conditions of consent.

8. RECOMMENDATION

THAT development application DA094/19 is approved subject to conditions set out in Schedule A.

Report prepared by Lachlan Sims, Acting Team Leader Development

A handwritten signature in black ink, appearing to read 'Lachlan Sims', is positioned below the text of the report.

APPLICATION REPORTED TO COUNCIL ORDINARY MEETING HELD ON 28 SEPTEMBER 2020

REASONS FOR CONDITIONS

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

- To ensure compliance with the terms of the relevant environmental planning instruments.
- To ensure no injury is caused to the existing and likely future amenity of the neighbourhood
- Due to the circumstances of the case and the public interest.
- To ensure that adequate road and drainage works are provided.
- To ensure that satisfactory arrangements are made to satisfy the increased demand for public recreation facilities.
- To ensure access, parking and loading arrangements will be made to satisfy the demands created by the development.
- To 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 lots are adequately serviced.
- To ensure there is no unacceptable impact on water quality.
- To ensure compliance with the requirements of statutory authorities.
- 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/Concurrence Approval Body - NSW Rural Fire Service and WaterNSW)

Please Note: This consent does not relieve the beneficiary of any obligation under any easement or covenant affecting the land.

GENERAL CONDITIONS

1. Concept development

The development is to be carried out generally in accordance with the following concept plans:

Plan Details	Prepared By	Reference	Date
Ground Floor Master Plan	Archi Spectrum	Drawing No. 01	11 March 2020
Site Plan	Archi Spectrum	Drawing No. 01, Issue B	12 June 2019
Elevations	Archi Spectrum	Drawing No. 03, Issue B	12 June 2019
Shadow Diagrams	Archi Spectrum	Drawing No. 04, Issue B	12 June 2019
Subdivision Plan	Archi Spectrum	Drawing No. 05, Issue B	12 June 2019
Concept Landscape Plan	Zenith Landscape Designs	Drawing Nos. 18-38749 L01 & L02	25 February 2019
Concept Sewer Design	Qalchek	Revision D	25 March 2020
Concept Civil Design	Samana Blue Engineering	Project No. 2019034, Drawing Nos. C10-C23, Revision B	19 July 2019

Approval for Stage 1 works are included in this development consent.

A separate development application is to be lodged and determined for each subsequent stage of the development.

2. Stage 1 development

Stage 1 of the development is to be carried out in accordance with the application and the approved plans and documents listed below unless otherwise amended by the conditions in this consent.

APPROVED DOCUMENTS

- Amended Statement of Environmental Effects; dated July 2019; REF: KN394,
- Stormwater Management Plan; dated 6 June 2019; Samana Blue Engineering,
- Heritage Impact Assessment; dated March 2019; Andrew Starr and Associates Heritage Consultants,
- Nationwide House Energy Rating Scheme Summary and BASIX Certificates; dated 24 April 2019,
- Bushfire Hazard Assessment; dated 8 June 2019; Barry Eadie Consulting Pty Ltd,
- Jr Richards Waste and Recycling Letter; dated 14 June 2019, and

- Traffic Impact and Parking Assessment; dated 13 September 2019; Samana Blue Engineering.

APPROVED PLANS

Plan Details	Prepared By	Reference	Date
Proposed Plan of Subdivision DP1155154	Applicant	N/A	N/A
Lot 1 Floor Plan, Elevations & Section	Archi Spectrum	Drawing Nos. DA03-DA06, Issue A	12 June 2019
Lot 2 Floor Plan, Elevations & Section	Archi Spectrum	Drawing Nos. DA07-DA10, Issue A	12 June 2019
Lot 3 Floor Plan, Elevations & Section	Archi Spectrum	Drawing Nos. DA10, DA12-DA14, Issue A	12 June 2019

This development consent authorises works for Stage 1 of the approved concept only and includes:

- Subdivision of Lot 402 DP 1155154 into two Torrens title lots creating an allotment for the proposed multi dwelling development,
- Construction of internal access roads and driveways,
- Landscaping of communal areas,
- Civil works – water, sewer, stormwater and utilities to service Stage 1 and subsequent stages,
- Construction of three dwellings, and
- Strata subdivision of the first three dwellings including common areas and a residual development lot.

CONDITIONS APPLICABLE PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE (TORRENS TITLE SUBDIVISION)

3. ***Application requirements***

An application for Subdivision Certificate is to be submitted to the PCA for the subdivision including payment of any applicable fees, two copies of the draft surveyor's plan and administration sheets and two copies of the proposed 88B/88E instruments. The administration sheets are to include relevant address details for each lot as follows:

Proposed Lot	Approved Area	Designated Street Address
Lot 1	1.050 hectares	52 TWEED ROAD, BOWENFELS NSW 2790
Lot 2	6.230 hectares	6 TANGENT STREET, BOWENFELS NSW 2790

4. ***88B and 88E instruments***

Any instruments under section 88B and 88E of the *Conveyancing Act 1919* submitted with the application for Subdivision Certificate are to include all requirements specified in this development consent including:

- Rural Fire Service APZ requirements
- Vegetation Management plan commitments

- Details of the Right of Carriageway
- Details of any required utility easements

5. ***Completion of water and sewer works***

Prior to the issue of a Subdivision Certificate, compliance with the terms of the S68 Approval for water and sewer works must be completed to the satisfaction in writing of Councils Water & Wastewater Director.

6. ***Utility connections***

Arrangements are to be made with relevant telecommunications, electricity and gas authorities for the provision of underground utility services to each of the approved lots in accordance with statutory requirements. Written confirmation of connection to each lot in accordance with the relevant authority's requirements or a 'Notification of Arrangement' is to be submitted to Council prior to the release of a final Subdivision Certificate.

7. ***Water and sewer connections***

- (1) A sewer main extension and sewer main realignment is to be provided to service proposed Lot 1 in accordance with the Concept DWG sent to Council by Qalchek Pty Ltd dated 25/3/20 for subdivision Stage 1 Rev D at owner's costs. No sewer connections for lot 1 or 2 are permitted to the existing 225mm sewer trunk main that is located within the development.
- (2) A single 150mm sewer point of connection to be provided at the property boundary of Lot 1 located in Tweed Road at owners' costs and be in accordance with LCC Sewer Connections Policy 3.5.
- (3) A 100mm metered water supply is to be provided to service the development and be in accordance with LCC Water Service & Meter Installation Policy 3.1., Fire Service Installation Policy 3.6 and Councils Containment Backflow Policy 3.4. All works to be at owners' costs.

8. ***Compliance Certificate – Water Management Act 2000***

A Compliance Certificate issued under Section 305 of the *Water Management Act 2000* is to be issued by Lithgow City Council prior to the issue of a Subdivision Certificate for the Torrens title subdivision. A Subdivision Certificate must not be issued until the applicable contributions are paid for each equivalent tenement (ET) for the development and in accordance with Lithgow City Council's Fees and Charges. This rate is subject to change as per any adopted subsequent Development Servicing Plan and that is annually adjusted for CPI (Sydney) and applicable at the time of payment.

9. ***Remediation***

A Remediation Action Plan (RAP) is to be prepared for the site in accordance with the EPA Guidelines for Consultants Reporting on Contaminated Land and that addresses the contamination of the land identified in the Envirowest Consulting Report (No R5230 dated 31 October 2005) and submitted in support of the application. Following the preparation of the RAP, the land is to be remediated in accordance with RAP recommendations and validated in accordance with the EPA guidelines. Copies of the RAP and associated remediation and validation report are to be submitted to Council prior to the issue of a Subdivision Certificate for the Torrens title subdivision.

CONDITIONS APPLICABLE PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE (STAGE 1 BUILDING WORKS)

10. ***Pedestrian access***

A minimum 1m wide pedestrian access (concrete footpath) shall be provided in the full length of the access handle. Details are to be submitted to and approved by the PCA and detailed on the Construction Certificate drawings prior to the issue of a Construction Certificate.

11. ***Vehicular access***

Driveway, car parking and vehicular access is to be designed in accordance with Australian Standard 2890.1:2004 Parking facilities – off street parking. The driveway within the access handle is to have a minimum width of 5.5 metres and include adequate provision for the passing of vehicles. Details are to be submitted to and approved by the PCA and detailed on the Construction Certificate drawings prior to the issue of a Construction Certificate.

12. ***Engineering design***

Prior to the issue of a Construction Certificate, the PCA is to 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. ESA shall be 1×10^5 for internal roads.

13. ***Water and sewer design***

(1) Prior to the issue of a Construction Certificate, a full set of Hydraulic Design Drawings for approval under S68070/19 is to be provided to Lithgow City Council as the relevant water authority showing the sanitary drainage layout, potable water design and fire hydrant design. The construction design details shall also show sewer main deviation details.

(2) A Master Meter and individual meters for each unit are required and to be shown on the design plan including details of containment backflow prevention. No water main extensions to be taken from the water supply for proposed Lot 2.

(3) The applicant is to provide water pressure and flow tests for potable water and fire supply design purposes for all fixtures for the new development prior to the S68 approval being issued and prior to the Hydraulic Design Drawings being submitted to Council.

14. ***External lighting***

All external lighting is to be designed and installed to meet the minimum requirements of Australian Standard 1158 for public streets, car parks and pedestrian access. A lighting plan is to be approved by the PCA in accordance with the above prior to the issue of a Construction Certificate.

15. ***Landscaping plan***

A landscaping plan for the proposed Stage 1 works is to be submitted to the PCA prior to the issue of a Construction Certificate. The submitted landscaping plan is to be generally in accordance with the approved concept landscaping plan for the site.

16. ***Internal access***

The full length of internal road, waste collection vehicle maneuvering area, the access handle and associated earthworks/retaining walls/stormwater drainage system, including swale drain in proposed easement, are to be provided as part of the Stage 1 works. Details are to be submitted to and approved by the PCA prior to the issue of a Construction Certificate.

17. ***Stormwater management***

Stormwater management infrastructure as detailed in the Stormwater Management Plan (Revision B, dated 24 July 2019) are to be detailed in the Construction Certificate drawings in accordance with the requirements of Water NSW and in this consent.

18. ***Civil design***

Certified plans for civil engineering works are to be generally consistent with the submitted Ground Floor Master Plan prepared by Archispectrum drawing number 01, dated 11 March 2020 and other civil plans.

19. ***Retaining walls***

Structural Design Certificates issued by a qualified structural engineer are to be provided for all retaining walls more than 1m in height.

CONDITIONS APPLICABLE PRIOR TO COMMENCEMENT OF CONSTRUCTION (STAGE 1 BUILDING WORKS)

20. ***Protection of adjoining areas***

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—

- (a) could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic, or
- (b) could cause damage to adjoining lands by falling objects, or
- (c) involve the enclosure of a public place or part of a public place.

21. ***Toilet facilities***

- (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.
- (2) Each toilet must—
 - (a) be a standard flushing toilet connected to a public sewer, or
 - (b) have an on-site effluent disposal system approved under the Local Government Act 1993, or
 - (c) be a temporary chemical closet approved under the *Local Government Act 1993*.

22. ***Waste management***

- (1) A waste management plan for the work must be prepared before work commences on the site.
- (2) The waste management plan must—
 - (a) identify all waste (including excavation, demolition and construction waste material) that will be generated by the work on the site, and
 - (b) identify the quantity of waste material, in tonnes and cubic metres, to be—
 - (i) reused on-site, and
 - (ii) recycled on-site and off-site, and
 - (iii) disposed of off-site, and
 - (c) if waste material is to be reused or recycled on-site—specify how the waste material will be reused or recycled on-site, and
 - (d) if waste material is to be disposed of or recycled off-site—specify the contractor who will be transporting the material and the waste facility or recycling outlet to which the material will be taken.

- (3) A garbage receptacle must be provided at the work site before works begin and must be maintained until the works are completed.
- (4) The garbage receptacle must have a tight fitting lid and be suitable for the reception of food scraps and papers.

23. ***Adjoining wall dilapidation report***

- (1) Before commencing any demolition or excavation works, the person having the benefit of the development consent must obtain a dilapidation report on any part of a building that is within 2m of the works.
- (2) If the person preparing the report is denied access to the building for the purpose of an inspection, the report may be prepared from an external inspection.

24. ***Site signage***

Prior to the commencement of any works on the land, a sign/s must be erected in a prominent position on the site:

- a. Showing the name of the principal contractor (if any) for any building work and a telephone number on which that person can be contacted outside working hours.
- b. Stating that unauthorised entry to the work site is prohibited and
- c. Showing the name, address and telephone number of the principal certifying authority for the work.

The sign/s are to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

25. ***Notification of adjoining landowner***

Prior to the commencement of construction works, the owner of Lot 401 DP 1155154 (52 Tweed Road) is to be given 7 days' notice prior to any works being undertaken on the Right of Carriageway.

26. ***Temporary access***

A temporary access shall be provided for Lot 401 DP 1155154 (52 Tweed Road) and shall be maintained during the construction of the development.

27. ***Traffic management plan***

Prior to construction works commencing, a fully certified traffic control plan and road works signage will be required 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 Lithgow City Council as the relevant roads authority 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 compliance with suitable traffic management procedures is achieved.

28. ***Run-off and erosion controls***

Run-off and erosion controls must be implemented to prevent soil erosion, water pollution or the discharge of loose sediment on the surrounding land by—

- (a) diverting uncontaminated run-off around cleared or disturbed areas, and
- (b) erecting a silt fence and providing any other necessary sediment control measures that will prevent debris escaping into drainage systems, waterways or adjoining properties, and
- (c) preventing the tracking of sediment by vehicles onto roads, and

- (d) stockpiling top soil, excavated materials, construction and landscaping supplies and debris within the lot.

These controls are to be implemented in accordance with the approved Sedimentation and Erosion Control Plan.

29. ***Vegetation management***

The recommendations and requirements of the approved vegetation management plan for the land is to be implemented prior to the commencement of construction works.

CONDITIONS APPLYING DURING CONSTRUCTION WORKS (STAGE 1)

Note. The Protection of the Environment Operations Act 1997 and the Protection of the Environment Operations (Noise Control) Regulation 2008 contain provisions relating to noise.

30. ***Standard hours for construction***

Construction may only be carried out between 7.00 am and 6.00 pm on Monday to Friday and between 8.00am and 1.00pm on Saturday. No construction is to be carried out at any time on a Sunday or a public holiday.

31. ***Construction Noise***

Construction noise shall be in accordance with the 'Noise Control Guidelines for Construction Noise Standards'.

32. ***Compliance with plans***

- (1) Works must be carried out in accordance with the plans and specifications to which the development consent relates.
- (2) A copy of the stamped and approved plans, development consent are to be on the site at all times.

33. ***Maintenance of site***

- (1) All materials and equipment must be stored wholly within the work site unless an approval to store them elsewhere is held.
- (2) Waste materials (including excavation, demolition and construction waste materials) must be managed on the site and then disposed of at a waste management facility.
- (3) Any run-off and erosion control measures required must installed in accordance with the approved Sedimentation and Erosion Control Plan and be maintained within their operating capacity until the completion of the works to prevent debris escaping from the site into drainage systems, waterways, adjoining properties and roads.
- (4) During construction—
 - (a) all vehicles entering or leaving the site must have their loads covered, and
 - (b) all vehicles, before leaving the site, must be cleaned of dirt, sand and other materials, to avoid tracking these materials onto public roads.
- (5) Only those areas involved in the construction of the civil works shall be disturbed, with all other areas of the site to be maintained with existing vegetation cover.
- (6) The developer shall ensure that during construction works, all measures are taken to eliminate/suppress any dust nuisance emanating from the site.

34. ***Earthworks, retaining walls and structural support***

- (1) Any earthworks (including any structural support or other related structure for the purposes of the development)—
 - (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

- (b) must not redirect the flow of any surface or ground water or cause sediment to be transported onto an adjoining property, and
 - (c) that is fill brought to the site—must contain only virgin excavated natural material (VENM) as defined in Part 3 of Schedule 1 to the *Protection of the Environment Operations Act 1997*, and
 - (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*.
- (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.
- (3) All earthworks shall be undertaken in accordance with AS3798 and Lithgow City Council’s Guidelines for Civil Engineering Design and Construction for Development”.

35. ***Archaeology discovered during excavation***

If any object having interest due to its age or association with the past is uncovered during the course of the work—

- (a) all work must stop immediately in that area, and
- (b) the Office of Environment and Heritage must be advised of the discovery.

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.

36. ***Aboriginal objects discovered during excavation***

If any Aboriginal object (including evidence of habitation or remains) is discovered during the course of the work—

- (a) all excavation or disturbance of the area must stop immediately in that area, and
- (b) the Office of Environment and Heritage must be advised of the discovery in accordance with section 89A of the *National Parks and Wildlife Act 1974*.

Note. If an Aboriginal object is discovered, an Aboriginal heritage impact permit may be required under the National Parks and Wildlife Act 1974.

37. ***Earthworks***

All earthworks shall be undertaken in accordance with Australian Standard 3798-2007 Commercial & Residential Earthworks and Lithgow City Council’s Guidelines for Civil Engineering Design and Construction for Development.

38. ***BASIX certificate***

The building works shall be constructed in accordance with, and comply with the undertakings given on the submitted BASIX certificate number 1008567M obtained on 24 April 2019 has expired.

Appropriate certification is to be submitted to the Principal Certifying Authority prior to issue of the occupation certificate indicating that all BASIX requirements have been undertaken.

CONDITIONS APPLICABLE PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE (STAGE 1 BUILDING WORKS)

39. ***Compliance with conditions***

All consent conditions, including those imposed by Water NSW and the NSW Rural Fire Service are to be satisfied prior to the issue of an Occupation Certificate.

40. ***Certificate of Compliance – Plumbing Works***

Prior to the issue of any Occupation Certificate, Lithgow City Council is to be provided with a Certificate of Compliance for plumbing works and approved drainage diagram for all sanitary plumbing and drainage.

41. ***Compliance Certificate – Water Management Act 2000***

A Compliance Certificate issued under Section 305 of the *Water Management Act 2000* is to be issued by Lithgow City Council prior to the issue of any Occupation Certificate for Stage 1 works. An Occupation Certificate must not be issued until the applicable contributions are paid for each equivalent tenement (ET) for the development and in accordance with Lithgow City Council's Fees and Charges. This rate is subject to change as per any adopted subsequent Development Servicing Plan and that is annually adjusted for CPI (Sydney) and applicable at the time of payment.

42. ***Planning agreement***

A planning agreement is to be entered into with Lithgow City Council under the provisions of section 7.4 of the *Environmental Planning and Assessment Act 1979* and in accordance with prior arrangements with Council. The general terms of the agreement will be that the developer shall make a contribution of \$5,000 per dwelling/strata lot for community facilities and public open space in the local government area. Such agreement must be entered into prior to the issue of any Occupation Certificate for Stage 1 dwellings.

43. ***Site stabilisation***

Prior to the issue of any Occupation Certificate, any disturbed areas of the site are to be generally made good and revegetated to the satisfaction of the PCA. Any excavated and filled areas are to be graded and drained and all constructed batters are to be top soiled and vegetated.

44. ***Lighting plan***

The approved lighting plan is to be implemented to the satisfaction of the PCA prior to the issue of an Occupation Certificate.

45. ***Works as executed plans***

Works as Executed (WAE) Plans detailing all services and infrastructure in the development are to be prepared by a registered surveyor or professional engineer and submitted to the Principal Certifying Authority and Lithgow City Council prior to the issue of an Occupation Certificate. Lithgow City Council requires the submission of three complete sets of hard copy plans (one A1-sized, two A3-sized) and one set of electronic plans in AUTOCAD format.

CONDITIONS APPLICABLE PRIOR OCCUPATION (STAGE 1 BUILDING WORKS)

46. ***Occupation certificate***

Prior to the use/occupation of Stage 1 dwellings, an Occupation Certificate must be issued by the Principal Certifying Authority.

CONDITIONS APPLICABLE PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE (STAGE 1 STRATA SUBDIVISION)

47. **Application requirements**

An application for Subdivision Certificate is to be submitted to the PCA for the subdivision including payment of any applicable fees, two copies the surveyors plans and administration sheets and two copies of the 88B/88E instruments. The administration sheets are to include relevant address details for each lot as follows:

Proposed Lot	Designated Street Address
Lot 1	1/52 TWEED ROAD, BOWENFELS NSW 2790
Lot 2	2/52 TWEED ROAD, BOWENFELS NSW 2790
Lot 3	3/52 TWEED ROAD, BOWENFELS NSW 2790

48. **88B and 88E instruments**

The instruments under section 88B and 88E of the *Conveyancing Act 1919* submitted with the application for Subdivision Certificate is to include all requirements specified in this development consent including:

- Rural Fire Service APZ requirements
- Water NSW stormwater management requirements
- Vegetation Management Plan commitments
- Maintenance of the Right of Carriageway by the Owners Corporation
- Details of any required utility easements

49. **Vegetation management**

The requirements of the positive covenant applicable to the land is to be also applied to each lot in the Strata subdivision. Sufficient documentary evidence is to be submitted to the PCA in this regard prior to the issue of a Subdivision Certificate for the Strata subdivision of Stage 1.

RURAL FIRE SERVICE CONDITIONS

50. **Asset Protection Zones**

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

- (1) At the commencement of building works, and in perpetuity, proposed lot 1 shall be managed as an Inner Protection Area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.
- (2) A 9 metre asset protection zone (APZ) is to be provided within proposed lot 2 as shown on the plan titled 'Concept Civil Plans' prepared by Samana Blue Engineering dated 7 June 2019 with reference 181222-C13 C as outlined in 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'. In accordance with section 88B of the Conveyancing Act 1919 a restriction to the land use shall be placed on the land requiring the provision of this APZ.

51. **Water and Utilities**

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as

not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

52. **Access**

The intent of measures for access roads is to provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area. To achieve this, the following conditions shall apply:

Road access shall comply with section 4.1.3 (1) of 'Planning for Bush Fire Protection 2006'.

53. **Design and Construction**

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

New construction within Stage 1 (Houses 1-3) shall comply with section 3 and section 7 (BAL 29) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' or NASH Standard (1.7.14 updated) 'National Standard Steel Framed Construction in Bushfire Areas – 2014' as appropriate and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection' 2006'.

WATER NSW CONDITIONS

54. **General**

The lot layout, works and staging of the subdivision shall be as specified in Statement of Environmental Effects (Ref: KN394, dated June 2019) prepared by KN Planning Pty Ltd, shown on the Proposed Subdivision Plan (Dwg No. 2019034-C12B, Rev. B, dated 19/07/19) prepared by Samana Blue Engineering Pty Ltd and Staging Plans (Sheet No. A1, Dwg. Nos. 01 and 05, dated 12.06.2019) prepared by Archispectrum. No revisions to lot layout, works or staging of the subdivision that will impact on water quality, shall be permitted without the agreement of Water NSW.

Reason for the above Condition - Water NSW has based its assessment under State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011 on this version of the development including subdivision.

55. **Upgrade to Existing Access Handle and Construction of New Driveways**

The existing access handle and new driveways shall be located, upgraded, and constructed as shown on the proposed Subdivision and Civil Plans prepared by Archispectrum dated 11 March 2020 and shall:

- be sealed and otherwise constructed in accordance with Council's engineering standards,
- runoff to be collected via a series of pits and pipes and directed to various water quality treatment measures, and
- incorporate inlet filters (Ocean Guard or Water NSW endorsed equivalent) on all inlet pits.

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

Reason for the above Conditions – To ensure that the upgrade of existing access handle and construction of access driveways and associated infrastructure will have a sustainable neutral or beneficial impact on water quality during the operational phase of the development.

57. ***Stormwater Management***

All stormwater management measures as specified in Section 4.2 of Stormwater Management Plan (Revision B, dated 24 July 2019) and shown on Concept Civil Plans (Dwg Nos. 2019034-C13B to C16B, Revision B, dated 19/07/19) all prepared by Samana Blue Engineering Pty Ltd shall be implemented. The stormwater management measures shall include:

- pits and pipes
- bioretention systems
- rainwater tanks
- gross pollutant traps and cartridge filters, and
- permeable paving.

58. Bioretention systems shall also:

- be designed consistent with Adoption Guidelines for Stormwater Biofiltration Systems Version 2 (Payne *et al*, 2015, Melbourne, CRC for Water Sensitive Cities),
- have a minimum combined filter area of 9 square metres,
- be accessible from access driveways by machinery to facilitate cleaning, monitoring and maintenance of the structures,
- be permanently protected from vehicular damage by bollards, fences, castellated kerbs or similar structures, with a sign to be erected to advise of its nature and purpose in water quality management, and
- be protected by sediment and erosion control measures during any construction and post-construction phase until the ground surface is revegetated or stabilised.

59. No changes to stormwater treatment and management that will impact on water quality, shall be permitted without the agreement of Water NSW.

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

61. An Operational Environmental Management Plan shall be prepared in consultation with Water NSW by a person with knowledge and experience in the preparation of such plans prior to the issuance of an Occupation Certificate and be provided to the Body Corporate for management of the development. The Plan shall:

- include details about the location and nature of stormwater management structures such as pits, pipes, inlet filters/gross pollutant traps, cartridge filters and bioretention systems
- outline the responsibilities and detailed requirements for the inspection, monitoring and maintenance of all stormwater management structures, including the frequency of such activities
- identify the persons responsible for inspection and maintenance activities including a reporting protocol and hierarchy, and
- include checklists for recording inspections and maintenance activities, particularly for bioretention basin, gross pollutant traps, and cartridge filters.

62. There shall be an instrument created under Section 88E of the *Conveyancing Act 1919*, prior to the issuance of Strata Subdivision Certificate, the prescribed authority being Water NSW, placed over the Common Property, requiring that:
- the gross pollutant traps, cartridge filters and bioretention systems be inspected, monitored, maintained and managed in accordance with the Operational Environmental Management Plan,
 - the structures shall be retained and protected, and
 - no development take place within one metre of the structures.

Reason for the above Conditions – To ensure that the stormwater quality management measures and structures for the proposed subdivision have a sustainable neutral or beneficial impact on water quality over the longer term.

63. **Construction Activities**

A Soil and Water Management Plan shall be prepared for all works for Stage 1 of the development, required for the proposed development by a person with knowledge and experience in the preparation of such plans. The Plan shall:

- meet the requirements outlined in Chapter 2 of NSW Landcom's Soils and Construction: Managing Urban Stormwater (2004),
- be prepared prior to issuance of a Construction Certificate and to the satisfaction of Council, and
- include controls to prevent sediment or polluted water leaving the construction site or entering any natural drainage lines or stormwater drain.

64. The Soil and Water Management Plan shall be implemented, and effective erosion and sediment controls shall be installed prior to any construction activity. The construction site shall be regularly inspected, monitored and maintained until works have been completed and groundcover established.

Reason for the above Conditions – To ensure to have an overall sustainable neutral or beneficial effect on water quality over the longer term.

Schedule B Referral Agency Responses

All communications to be addressed to:

Headquarters
4 Murray Rose Ave
Sydney Olympic Park NSW 2127

Headquarters
Locked Bag 17
Granville NSW 2142

Telephone: 1300 NSW RFS
e-mail: records@rfs.nsw.gov.au

Facsimile: 8741 5433



The General Manager
City of Lithgow Council
PO Box 19
LITHGOW NSW 2790

Your Ref: DA094/19
Our Ref: D19/2337
DA19071519548 AP

ATTENTION: Lauren Stevens

31 July 2019

Dear Ms Stevens

Integrated Development Application - 402//1155154 - Tweed Road Bowenfels 2790

I refer to your correspondence dated 10 July 2019 seeking general terms of approval for the above Integrated Development Application.

The New South Wales Rural Fire Service (NSW RFS) has considered the information submitted. General Terms of Approval, under Division 4.8 of the 'Environmental Planning and Assessment Act 1979', and a Bush Fire Safety Authority, under Section 100B of the 'Rural Fires Act 1997', are now issued subject to the following conditions:

Asset Protection Zones

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

1. At the commencement of building works, and in perpetuity, proposed lot 1 shall be managed as an Inner Protection Area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.
2. A 9 metre asset protection zone (APZ) is to be provided within proposed lot 2 as shown on the plan titled 'Concept Civil Plans' prepared by Samana Blue Engineering dated 7 June 2019 with reference 181222-C13 C as outlined in 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'. In accordance with section 88B of the Conveyancing Act 1919 a restriction to the land use shall be placed on the land requiring the provision of this APZ.

Water and Utilities

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

3. Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

Access

The intent of measures for public roads is to provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area. To achieve this, the following conditions shall apply:

4. Public road access shall comply with section 4.1.3 (1) of 'Planning for Bush Fire Protection 2006'.

Design and Construction

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

5. New construction within Stage 1 (Houses 1-3) shall comply with section 3 and section 7 (BAL 29) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' or NASH Standard (1.7.14 updated) 'National Standard Steel Framed Construction in Bushfire Areas – 2014' as appropriate and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection' 2006'.

Should you wish to discuss this matter please contact Alastair Patton on 1300 NSW RFS.

Yours sincerely



Nika Fomin
Manager, Planning and Environment Services

For general information on bush fire protection please visit www.rfs.nsw.gov.au



PO Box 398, Parramatta NSW 2124
Level 14, 169 Macquarie Street
Parramatta NSW 2150
www.waterNSW.com.au
ABN 21 147 934 787

28 August 2019

Our Ref: 19099-a1
Your Ref: 094/19

Lauren Stevens
Development Planner
Lithgow City Council
PO Box 19
LITHGOW 2790

Dear Ms Stevens

**Subject: Sydney Drinking Water Catchment SEPP
DA No 094/19; Lot 402 DP 1155154; 52A TWEED ROAD, BOWENFELS**

I refer to Council's correspondence received 10 July 2019 requesting the concurrence of Water NSW under *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011* with a proposal for a 2-Lot Torrens Title Subdivision and 3 multi-dwellings including a concept development of an additional 12-multi dwellings on the above land.

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

Water NSW has considered the following documents in the assessment of the application:

- Statement of Environmental Effects prepared by KN Planning Pty Ltd (dated June 2019)
- Site Plans including a staging plan prepared by Archispectrum (dated 12 June 2019), and
- Stormwater Management Plan (dated 24 July 2019) incorporating a MUSIC stormwater quality model and Concept Civil Designs Plans (dated 19 July 2019) including a proposed subdivision plan all prepared by Samana Blue Engineering Pty Ltd.

The Concept development application proposes to be staged as follows:

- Stage 1: 2-lot Torrens Title Subdivision and further 15-lot strata subdivision of proposed Lot 1, construction of new access driveways, upgrade of existing access handle, construction of 11 visitor parking spaces, landscaping of communal areas, erection of 3 detached dwellings on Lots 1-3 of strata subdivision
- Stage 2: Erection of 3 detached dwellings on Lots 4-6
- Stage 3: Erection of 3 detached dwellings on Lots 7-9, and
- Stage 4: Erection of detached dwellings on Lots 10 and 13 and semi-detached dwellings on Lots 11, 12, 14 and 15.

Water NSW notes that proposed development application seeks consent for Stage 1 and Lot 2 will remain undeveloped. Stages 2 to 4 will be subject to separate development applications. Water NSW has assessed the potential water quality impacts of the development in its entirety, as well as Stage 1 only.

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

If, after receipt of this letter, revisions are made to any of the DA plans, Council does not need to refer the plans to Water NSW if the revisions will have no impact on water quality.

Council is requested to amend the relevant Water NSW's condition/s to reference the revised plans, and notify the assessing officer by email.

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

General

1. The lot layout, works and staging of the subdivision shall be as specified in Statement of Environmental Effects (Ref: KN394, dated June 2019) prepared by KN Planning Pty Ltd, shown on the Proposed Subdivision Plan (Dwg No. 2019034-C12B, Rev. B, dated 19/07/19) prepared by Samana Blue Engineering Pty Ltd and Staging Plans (Sheet No. A1, Dwg. Nos. 01 and 05, dated 12.06.2019) prepared by Archispectrum. No revisions to lot layout, works or staging of the subdivision that will impact on water quality, shall be permitted without the agreement of Water NSW.

Reason for Condition 1 - Water NSW has based its assessment under State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011 on this version of the development including subdivision.

Upgrade to Existing Access Handle and Construction of New Driveways

2. The existing access handle and new driveways shall be located, upgraded, and constructed as shown on the proposed Subdivision and Civil Plans (Dwg No. 2019034-C12B to C14B, Rev. B, dated 19/07/19) prepared by Samana Blue Engineering Pty Ltd and shall:
 - be sealed and otherwise constructed in accordance with Council's engineering standards
 - runoff to be collected via a series of pits and pipes and directed to various water quality treatment measures, and
 - incorporate inlet filters (Ocean Guard or Water NSW endorsed equivalent) on all inlet pits.
3. All stormwater structures and drainage works associated with the proposed driveways shall be wholly included in the road or drainage reserve or within suitably defined easements.

Reason for Conditions 2 & 3 – To ensure that the upgrade of existing access handle and construction of access driveways and associated infrastructure will have a sustainable neutral or beneficial impact on water quality during the operational phase of the development.

Stormwater Management

4. All stormwater management measures as specified in Section 4.2 of Stormwater Management Plan (Revision B, dated 24 July 2019) and shown on Concept Civil Plans (Dwg Nos. 2019034-C13B to C16B, Revision B, dated 19/07/19) all prepared by Samana Blue Engineering Pty Ltd shall be implemented. The stormwater management measures shall include:
 - pits and pipes
 - bioretention systems
 - rainwater tanks
 - gross pollutant traps and cartridge filters, and
 - permeable pavings.
5. Bioretention systems shall also:

- be designed consistent with Adoption Guidelines for Stormwater Biofiltration Systems Version 2 (Payne *et al*, 2015, Melbourne, CRC for Water Sensitive Cities)
 - have a minimum combined filter area of 9 square metres
 - be accessible from access driveways by machinery to facilitate cleaning, monitoring and maintenance of the structures
 - be permanently protected from vehicular damage by bollards, fences, castellated kerbs or similar structures, with a sign to be erected to advise of its nature and purpose in water quality management, and
 - be protected by sediment and erosion control measures during any construction and post-construction phase until the ground surface is revegetated or stabilised.
6. No changes to stormwater treatment and management that will impact on water quality, shall be permitted without the agreement of Water NSW.
 7. A suitably qualified stormwater consultant or engineer shall certify in writing to Water NSW and Council prior to the issuance of an Occupation Certificate that all stormwater management structures have been installed as per these conditions of consent and are in a functional state.
 8. An Operational Environmental Management Plan shall be prepared in consultation with Water NSW by a person with knowledge and experience in the preparation of such plans prior to the issuance of an Occupation Certificate and be provided to the Body Corporate for management of the development. The Plan shall:
 - include details about the location and nature of stormwater management structures such as pits, pipes, inlet filters/gross pollutant traps, cartridge filters and bioretention systems
 - outline the responsibilities and detailed requirements for the inspection, monitoring and maintenance of all stormwater management structures, including the frequency of such activities
 - identify the persons responsible for inspection and maintenance activities including a reporting protocol and hierarchy, and
 - include checklists for recording inspections and maintenance activities, particularly for bioretention basin, gross pollutant traps, and cartridge filters.
 9. There shall be an instrument created under Section 88E of the *Conveyancing Act 1919*, prior to the issuance of Strata Subdivision Certificate, the prescribed authority being Water NSW, placed over the Common Property, requiring that:
 - the gross pollutant traps, cartridge filters and bioretention systems be inspected, monitored, maintained and managed in accordance with the Operational Environmental Management Plan
 - the structures shall be retained and protected, and
 - no development take place within one metre of the structures.

Reason for Conditions 4 to 9 – To ensure that the stormwater quality management measures and structures for the proposed subdivision have a sustainable neutral or beneficial impact on water quality over the longer term.

Construction Activities

10. A Soil and Water Management Plan shall be prepared for all works for Stage 1 of the development, required for the proposed development by a person with knowledge and experience in the preparation of such plans. The Plan shall:

- meet the requirements outlined in Chapter 2 of NSW Landcom's Soils and Construction: Managing Urban Stormwater (2004)
 - be prepared prior to issuance of a Construction Certificate and to the satisfaction of Council, and
 - include controls to prevent sediment or polluted water leaving the construction site or entering any natural drainage lines or stormwater drain.
11. The Soil and Water Management Plan shall be implemented, and effective erosion and sediment controls shall be installed prior to any construction activity. The construction site shall be regularly inspected, monitored and maintained until works have been completed and groundcover established.

Reason for Conditions 10 & 11 – To ensure to have an overall sustainable neutral or beneficial effect on water quality over the longer term.

Subsequent Development Applications

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

Under Clause 11 of the SEPP, Council must provide Water NSW with a copy of its determination of the application within 10 days of the determination. Water NSW also requests that Council provide it with a copy of the final approved Plan of Torrens Title and Strata Title subdivision plans.

If you wish to discuss this matter further please contact Juri Jung on 9865 2503.

Yours sincerely



GIRJA SHARMA
Catchment Assessments Manager