



STATEMENT OF ENVIRONMENTAL EFFECTS

Integrated Housing, Subdivision and Subdivision Works Certificate

Proposed Lots 1213, 2000, 2200 & 2210 in Lot 1 DP
1226122

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Statement of Environmental Effects

Integrated Housing, Subdivision and Subdivision Works Certificate
Part of Lot 1 DP 1226122 (Approved Lots 1213, 2000, 2200 & 2210),
16 Chapman Street, Werrington

Prepared for

Lendlease Communities (Werrington) Pty Ltd.

By



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Lendlease Communities (Werrington) - Stage1A and 2C Integrated House
Sites\Reports\Northern Residue Lots\Eden Brae\Lots 1230 and 2230

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Client: Lendlease Communities (Werrington) Pty Ltd.

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Executive Summary

This Statement of Environmental Effects (**SEE**) has been prepared to accompany a Development Application (**DA**) lodged on behalf of Lendlease Communities (Werrington) Pty Ltd (the **Applicant**) seeking approval of an integrated housing DA, including subdivision to create twelve (12) Torrens title allotments and associated works on residue lots within the estate at 16 Chapman Street, Werrington. The proposal seeks the subdivision of the site to occur first, then subsequent construction of the relevant dwellings. The DA is also accompanied by the detailed design for subdivision works and seeks consent for a Subdivision Works Certificate (**SWC**).

1.1 The Site

The site is located within the South Werrington Urban Village (**SWUV**) area of the Werrington Enterprise Living and Learning Precinct in the Penrith Local Government Area (**LGA**). The land is intended to undergo significant transformation from its current vacant state to urban purposes following the Precinct's rezoning and subsequent approval of DA19/0704 for:

"Integrated Development Application for: staged subdivision of Land to create 227 lots, 17 industrial lots, open space lots, 14 residue lots and road dedication. Works include site preparation, vegetation removal, bulk earthworks, civil works, construction of roads, including the East-West Collector Road and Round-a-bout on Werrington Road, stormwater infrastructure and basins."

Development Consent DA19/0704 was granted on 18 December 2020 by the Sydney Western City Planning Panel (the **Panel**) and includes the creation of the residue Lots 1213, 2000, 2200 and 2210 which are subject of this DA (the **site**). These sites are four of seven residue lots created under DA19/0704, that are located at the northern end of residential blocks within the estate. The other three northern residue lots (Lot 1230, 2010 and 2230) are subject of a separate DA and SWC application submitted currently being assessed by Council under DA21/0811.

1.2 The Proposal

The proposals of the northern residue lots have been separated into two DAs to reflect the variation in designs. The Applicant has partnered with Creation Homes to deliver the lots subject of this DA, whilst the proposal under DA21/0811 will be delivered by Eden Brae. The engagement of two different builders is an active decision by the Applicant ensure variation in housing product will be delivered across the estate.

The main components of the proposal include:

- The sites subject of this DA are residue lots created under DA19/0704.
- The application is for integrated housing development including subdivision to establish 12 dwellings across 12 Torrens title allotments.
- The proposal seeks consent that allows the subdivision of the land to occur prior to the construction of the dwellings.

- This DA includes the concurrent submission of an application for SWC and requests the consent be conditioned accordingly.
- The development provides dwellings with a north/south orientation, that address Road No. 9 and the park opposite. The building envelopes have been carefully considered to ensure future dwellings to their south maintain solar access and privacy.
- The proposed development maintains suitable private open space and amenity for the future occupants, whilst positively contributing to the character of the surrounding estate.

The proposal has been designed to be consistent with the future character of the locality, which will be established by existing consents and other dwellings constructed as Complying Development provisions of the Housing Code under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Code SEPP)*.

1.3 Consistency with Surrounding Approvals

This application represents one of many DAs that have been lodged after the approval of DA19/0704. One of the subsequent applications approved was for an integrated housing development including 26 houses and associated subdivision under DA20/0200. The proposal under DA20/0200 was for land that had a similar orientation and shallow configuration to the lots subject of this DA and which required variations to the rear setback and site coverage controls under the Penrith Development Control Plan (**PDCP**). In addition to DA20/0200, there have been over 25 consents issued for single “build to boundary dwellings” on lots that are 10m wide. Several of these dwellings were also approved with variations to site coverage controls under the PDCP.

1.4 Compliance with Development Controls

It is noted that the proposal is fully compliant with site coverage and landscaping area controls in the PDCP. However, similar to DA20/0200 the depth and orientation of the lots does not enable the 8m setback at the ground floor and 12m setback to the rear boundary at the upper storey to be achieved. This control is applied under the PDCP to lots that have a northern orientation and seeks to ensure direct solar access and privacy is maintained to the private open space (**POS**) of adjoining dwellings. The variations to this setback control are supported in the circumstances of this proposal on the following grounds:

- The north/south subdivision orientation ensures dwellings address Road 09, which provides a positive streetscape and character to the locality. The alternative configuration with side boundaries of dwellings addressing Road 09 and the park opposite would be a poor urban design outcome for the estate.
- The resultant lots have a depth of approximately 19m, accommodating a front setback of 4.5m and a rear setback at the ground level of 8m provides a potential building envelope of 6.5m deep, with an upper storey of a depth of only 2.5m after considering the upper storey setback requirement of 12m. It is not feasible to comply with these controls on this specific site.
- Unlike other approvals under DA20/0200 and consents issued for dwellings on lots with a frontage less than 10m, the proposal the subject of this DA maintains and exceeds the minimum landscaping controls of the PDCP. Furthermore, the landscaping is provided to a

higher quality than required under the PDCP to contribute to the quality and character of the public domain in the estate.

- Despite the departure from the rear setback requirements, the development has demonstrated how location of POS areas at the side setback of the dwellings ensures suitable direct solar access will be afforded to the future occupants and improved privacy to adjoining dwellings. Solar diagrams have also demonstrated that the upper storey design and roofline has been considered to ensure the adjoining dwellings will not experience any unreasonable overshadowing.
- The upper storey floor plan and windows ensure that privacy of adjoining property's POS will be maintained.

The proposed variations have been assessed against the relevant objectives in the Penrith DCP and matters raised by Council prior to lodgement. As outlined above, the proposal is considered to meet the objectives of the SWUV Precinct and will ensure the delivery of a high-quality residential neighbourhood.

This DA seeks approval for the works under Part 4 of the *Environmental Planning and Assessment Act 1979* (**EP&A Act**). The site is zoned R1 General Residential and R4 High Density Residential, and the proposed development is permissible with consent under the *Penrith Local Environmental Plan 2010* (**PLEP 2010**). This application has demonstrated that the proposal complies with the relevant controls and development standards in the PLEP 2010 and the PDCP.

The proposal is categorised as 'Integrated development' under section 4.46 of the EP&A Act given the site is mapped as bushfire prone, therefore the proposed development will require a Bushfire Safety Authority from the NSW Rural Fire Service (**RFS**) for the subdivision of the land that is to be used for residential purposes pursuant to section 100B(1) of the *Rural Fires Act 1997* (**RF Act**). The proposal is not classified as Regionally Significant or Designated Development and will likely be determined by Penrith City Council (**Council**) or the Local Planning Panel should the application receive more than 10 submissions.

This SEE concludes that the proposed development is an acceptable form of development without having any adverse impact upon the environment and surrounding location. It is recommended that the proposal be approved subject to the imposition of appropriate conditions of consent.

2 Introduction

2.1 Background

GLN Planning Pty Ltd (**GLN**) has been commissioned by the Applicant to prepare this SEE. It accompanies a DA seeking approval for integrated housing including subdivision to create twelve (12) Torrens title allotments including associated civil works over proposed Lots 1213, 2000, 2200, and 2210, which are currently part of Lot 1 DP 1226122, 16 Chapman Street, Werrington. Concurrent to this DA is an application SWC for the relevant subdivision works.

The site is located on land identified within the SWUV Precinct (see **Figure 1**) in the Penrith LGA and is zoned part R1 General Residential and R4 High Density Residential under PLEP 2010.

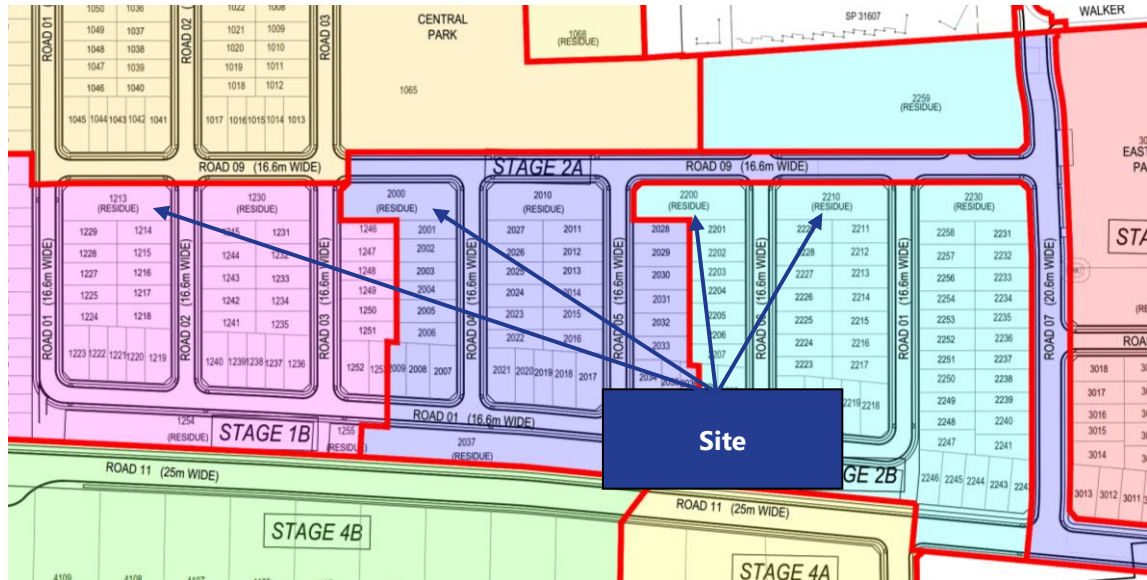


Source: Penrith Development Control Plan 2014

Figure 1 SWUV Structure Plan (site shown yellow)

The proposal is located within the Applicant's estate, known as "Kings Central". The parent subdivision consent for Kings Central was issued by the Western Sydney Planning Panel on 18 December 2020 under DA19/0704. The site comprises of four residue lots located at the northern ends of the blocks fronting Road 09 (see **Figure 2**). These lots were approved as residue sites as the lots were north facing and lacked the depth to provide standard dwellings. The proposal over these lots has therefore been provided to take advantage of the location of the sites in relation to the park, provide a positive contribution to the evolving character of the estate as well as introduce diversity and tailored housing product for this land.

The proposed dwellings under this DA will be delivered by Creation Homes who are also engaged to deliver several other dwellings within the estate. The dwellings on the balance of the northern residue lots being Lot 1230, 2010, 2230 are proposed under DA21/0811, and include designs prepared by Eden Brae Homes. The approach to include two builders ensures there will be a range of products delivered in the estate.



Source: Cardno

Figure 2 Snapshot of proposed subdivision under DA19/0704

2.2 Development History

As previously outlined, the land at 16 Chapman Street, Werrington is subject to Development Consent DA19/0704, which was approved by the Sydney Western City Planning Panel on 18 December 2019. The consent includes:

"Integrated Development Application for: staged subdivision of Land to create 227 lots, 17 industrial lots, open space lots, 14 residue lots and road dedication. Works include site preparation, vegetation removal, bulk earthworks, civil works, construction of roads, including the East-West Collector Road and Round-a-bout on Werrington Road, stormwater infrastructure and basins".

The proposal the subject of this application is over three residue lots created under DA19/0704 (see **Figure 2** above). There are several other current DAs and consents over the site, these include:

- DA21/0811, which is currently under assessment by Council for a DA and SWC for 12 Torrens title lot subdivision and integrated housing development of 12 dwellings on residue Lots 1230, 2010 and 2230.
- DA 20/0081, which was approved by Council on 2 November 2021 for the Staged construction and delivery of two open space parklands comprising the Central Reserve and Eastern Basin Park and restoration and management of Cumberland Plain Woodland (CPW) within the E2 Environmental Conservation reserve (see **Figure 3**). Specifically, this approval comprises of:

- Construction of the Central Reserve, comprising a large areas of retained CPW vegetation, a planted bio-retention area and large informal grassed basin, children's play space areas, barbeque picnic areas and associated shelters, active recreation zone and pedestrian access paths.
- Construction of the Eastern Basin Park, comprising a planted bio-retention area and large informal grassed basin framed by planted embankments incorporating pedestrian access paths and passive seating and picnic shelter furniture elements.
- Implementation of the proposed vegetation management measures outlined in Niche's Vegetation Management Plan (**VMP**) to ensure the ongoing viability and conservation of the E2 Environmental Conservation reserve.



Source: Place Design Group

Figure 3 Snapshot of approved plan under DA20/0081 for the Central Reserve and Easter Basin Parks

- DA20/0200 which was approved subject to deferred commencement condition on 10 March 2021. Particulars of the consent include:
 - The consent was specifically granted for "integrated housing comprising of site preparation, construction of 26 detached dwelling houses and subdivision to create 26 Torrens title residential lots on residue Lots 1252, 1263, 2046, 2048 and 2212" approved under DA19/0704 (see **Figure 4**). The lots have a similar orientation and limited depth – similar to the lots the subject of this DA.
 - The consent includes the construction of bespoke detached dwellings on 26 integrated housing lots. The proposed lots have a dimension of 17m x 17m and oriented private open space to the front of the dwelling to maximise solar access and mitigate impacts from the proposed road and industrial area to the south.
 - The proposed dwellings are described as build to boundary dwellings within the SWUV Precinct of the PDCP and included variations to the rear setback (100% variation) and site coverage (57% variation) controls (see **Figure 5**). The variations were approved on account of the unique site conditions and configurations and that despite the variation, a suitable level of amenity could be delivered.

- the staged subdivision of the land to occur first, with dwellings the issue of the subdivision certificates. The consent includes a one dwelling design constructed on each lot to that design consent.
- Consent condition required additional acoustic assessment and This condition was satisfied on 5 August 2021. The consent is

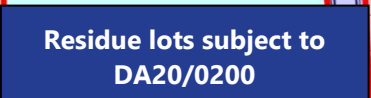


Figure 4 Snapshot of subdivision approved under DA19/0704 - highlighting residue lots subject of DA20/0200

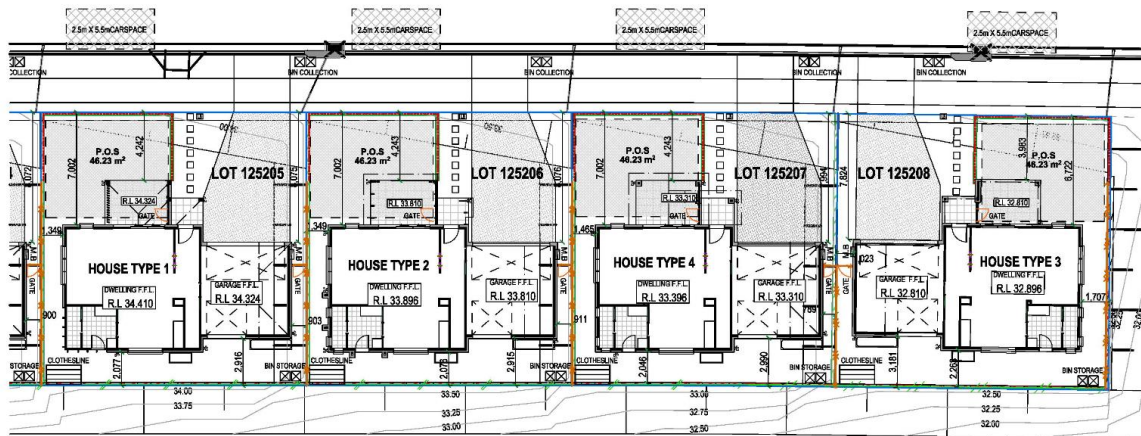
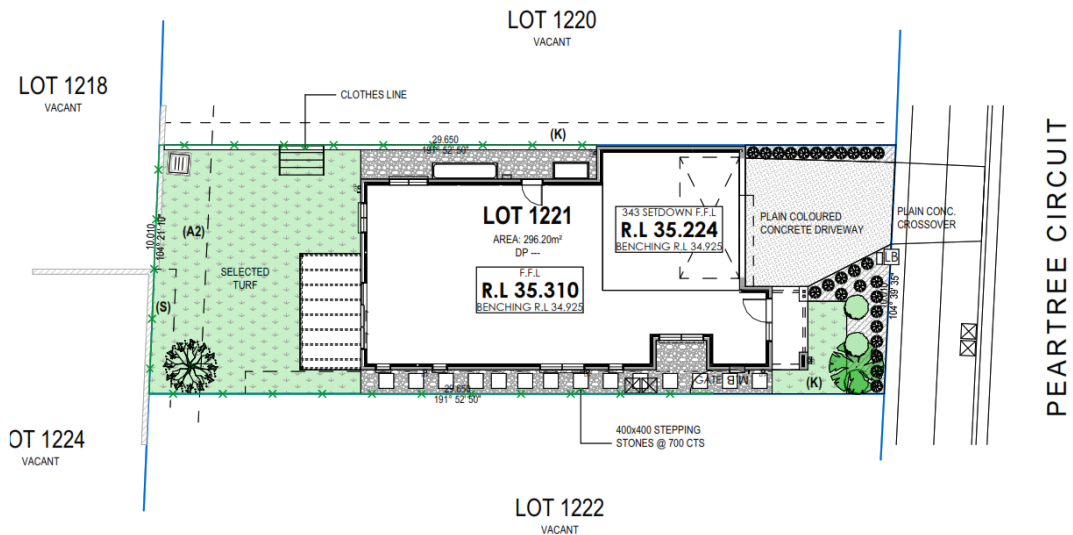


Figure 5 Snapshot of approved site plans under DA20/0200

- There have also been several consents issued for single detached dwellings over lots approved under DA19/0704. Some of these consents are for lots that have a width of 10m and include a double garage and therefore are not Complying Development under the Housing Code in Code SEPP. Common characteristics of the approvals include:

- The proposed dwellings were described as build to boundary dwellings within the SWUV Precinct of the PDCP and included variations to site coverage (40% variation) controls (see **Figure 6**), however the dwellings were considered to provide sufficient amenity as paving was minimised and landscaped areas were enhanced.



Source: Creation Homes

Figure 6 Snapshot of approved landscape plan under DA 21/0368

2.3 Purpose of Report

This SEE has been prepared in accordance with Schedule 1 of the EP&A Regulation for the purposes of:

- Demonstrating that the environmental impacts of the development have been considered, and
- Outlining steps to be undertaken to protect the environment or to lessen any expected harm to the environment.

This SEE details the necessary information for the proposal to be assessed by the consent authority, including a description of the site and its surrounds, and an assessment of the proposal against the relevant planning controls.

This SEE concludes that the proposal is acceptable in that it is generally consistent with the relevant planning controls and will have minimal environmental impacts that can be satisfactorily managed.

2.4 Type of Development Application

The proposal relates to the construction of dwelling houses, subdivision of the site and associated works. This DA is also accompanied by an application for a SWC for the relevant subdivision works. The proposed works constitute 'development' in accordance with section 1.5 of the EP&A Act.

A Bushfire Safety Authority is required to be obtained from the NSW RFS pursuant to section 100B(1) of the *Rural Fires Act 1997* for a *subdivision of bushfire prone land that could lawfully be used for residential or rural residential purposes*. The DA is therefore considered “integrated development” in accordance with section 4.46 of the EP&A Act.

Under section 9.1 of the EP&A Act, the Minister for Planning made the *Local Planning Panels Direction - Development Applications*. This direction commenced on 1 March 2018, was amended in June 2020 and applies to all councils in the Greater Sydney Region, Central Coast Region and Wollongong. Similar to the consent granted under DA20/0200 the proposal does not involve any conflict of interest, sensitive development or a departure from a development standard as outlined under the Direction. Subject to the proposal not receiving more than 10 submissions during the public exhibition period, it is our understanding that the proposal will not require referral to the Local Planning Panel.

This DA is not considered as ‘Designated development’, ‘Regionally significant development’ or ‘State significant development’ under the EP&A Act or the EP&A Regulation. It is expected that Council will be the consent authority for the DA.

3 The Site and Locality

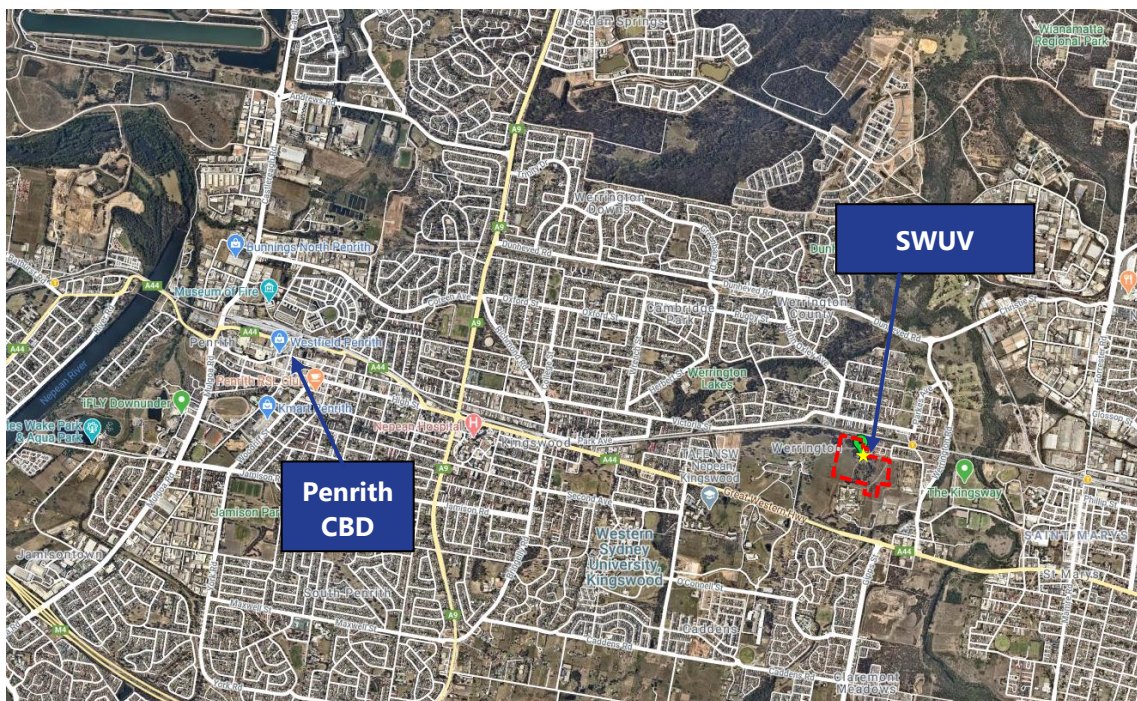
This section of the report identifies the matters that underpin the siting, design and other planning considerations relevant to the development on the land, including:

- the site and its physical context, and
- the background to planning considerations that has led to and supports the current DA for the proposed development.

The considerations outlined in this section are summarised into a site analysis to inform and confirm the siting and design and environmental responses required to ensure the appropriate development outcomes for the land.

3.1 Site Location

The site is situated in the SWUV Precinct of Werrington within the Penrith LGA, as illustrated within **Figure 7** below.



Source: www.nearmap.com, 2019

Figure 7 General Site Location

The SWUV Precinct comprises approximately 48 hectares (**ha**) of land that has been identified for urban development comprising residential and employment generating uses. The SWUV Precinct will assist the delivery of housing and employment opportunities in Penrith and integrate with the existing Werrington community north and south of the Great Western Railway line.

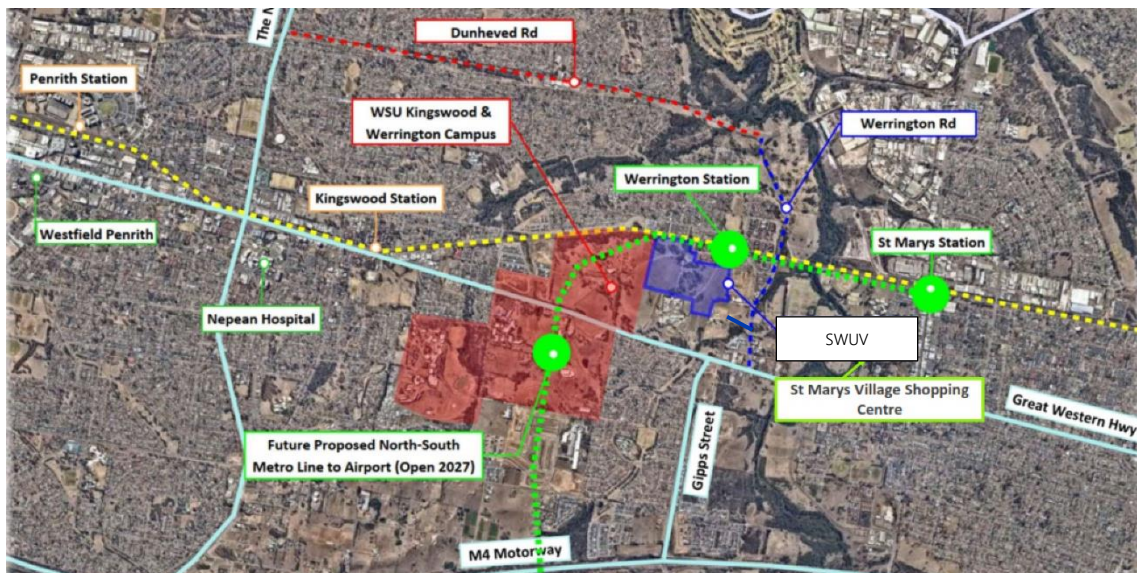
A vision for the SWUV Precinct was established through the Werrington Enterprise Living and Learning Strategy 2004 which is as follows:

'Demonstrating a model for sustainable urban development, that captures its potential arising from proximity to transport linkages and tertiary educational facilities, the WELL precinct will be an internationally renowned destination of choice for business, residents, and students. The synergies arising from the collective presence of these groups will energise the precinct and represent a catalyst for the emergence of creativity and innovation demonstrated in the enterprise, living and learning activities undertaken within the Precinct. Whilst attracting and accommodating a diverse range of land use activities and people, the desirability of the place will be a function of the seamless integration of those people and activities and the cosmopolitan lifestyles choices it subsequently generates and offers.'

In a regional context, the site is located approximately 7km east of the Penrith Central Business District (CBD) and approximately 50km west of Sydney CBD. Werrington Train Station is located approximately 20m north of the site and the University of Western Sydney (UWS) Werrington North Campus is located to the west with a common boundary to the site.

As illustrated in **Figure 8**, the surrounding locality comprises a mixture of land uses, with low and medium density residential development located between the site's northern boundary and the Greater Western Railway line. To the immediate south of the site lies the Cobham Juvenile Justice Centre, while to the southeast lies the grounds of Wollemi College educational establishment. To the east of the site beyond Werrington Road lies existing regional recreational open space grounds at The Kingsway.

The site benefits from close proximity to major roads, including the Great Western Highway to the south and the Western Motorway. As noted above, the site is also located in close proximity to Werrington Train Station on the Greater Western Rail line, providing regular public transport services west to Penrith CBD and east to Parramatta and Sydney CBD's.



Source: Lendlease

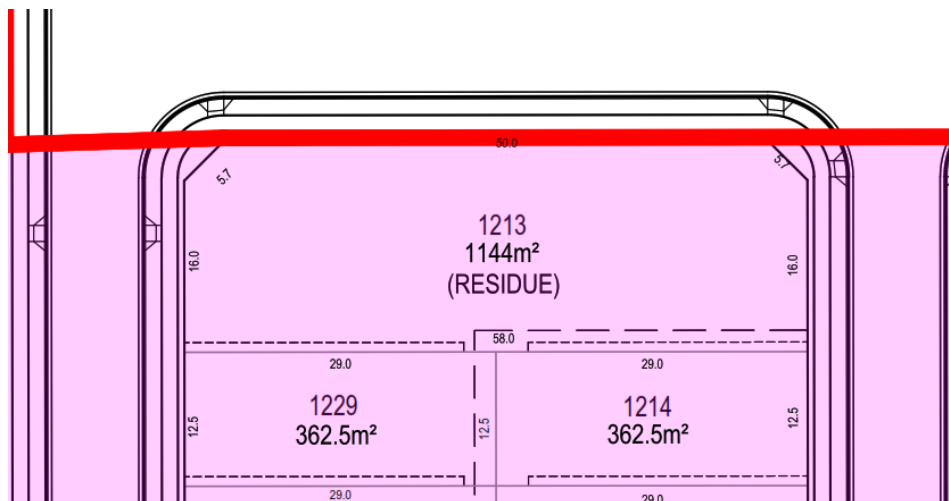
Figure 8 Surrounding locality

3.2 Site Description

The land the subject of this DA is legally described as Lot 1 DP 1226122, 16 Chapman Street, Werrington. The site is known as proposed Lot 1213, 2000, 2200 and 2210, which were approved as

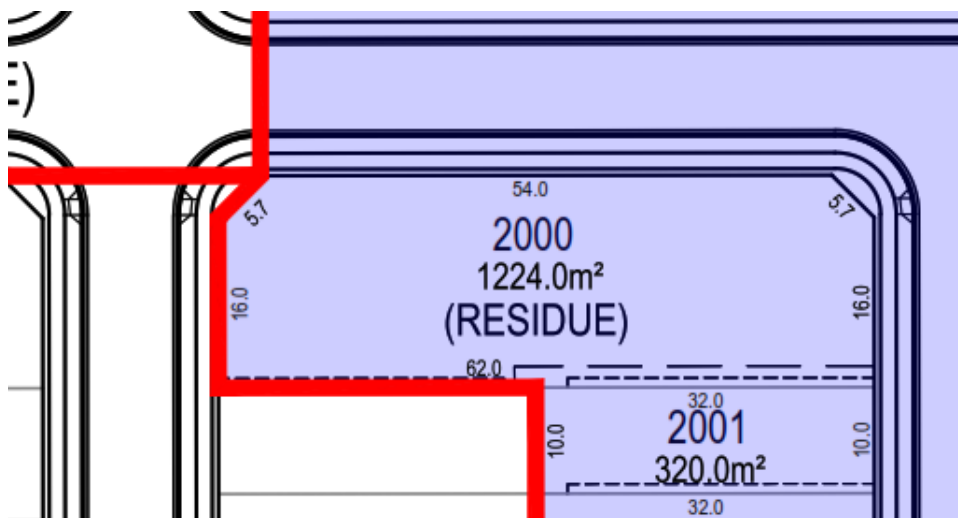
'residue lots' under DA 19/0704 (see **Figures 8, 9, 10**). The lot areas and dimensions are described **Table 2**.

Each of the approved residue lots have frontages to Road 09, generally opposite the central park (Lot 1213 is within 50m). The eastern and western boundaries of the residue lots are defined by secondary roads, whilst the rear (southern) boundary adjoin the side boundaries of other residential lots. Easements adjoining the southern boundary burden each of the sites. These easements benefit the lots to the south (allowing for building to boundary dwellings). An additional easement burdens the Lots for the purpose of inter-allotment drainage and runs from the centre of the southern boundary to the eastern boundary.



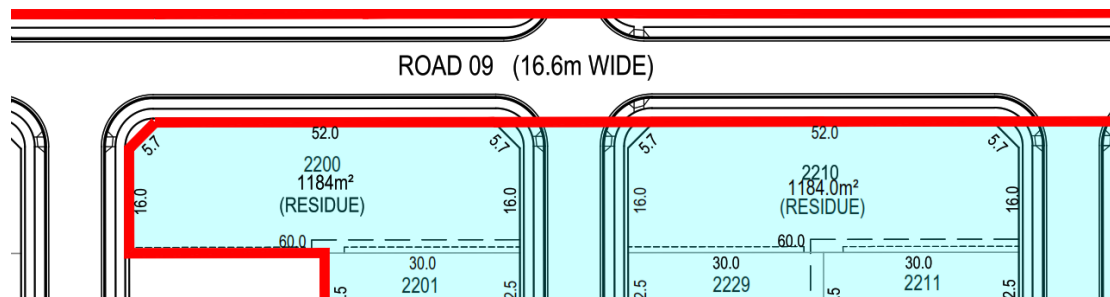
Source: Cardno

Figure 9 Snapshot of Approved Plan of Subdivision under DA19/0704 – showing Lot 1213



Source: Cardno

Figure 10 Snapshot of Approved Plan of Subdivision under DA19/0704 – showing Lot 2000



Source: Cardno

Figure 11 Snapshot of Approved Plan of Subdivision under DA19/0704 – showing Lot 2200 and 2210

Table 1 Site Dimensions

Lot	Area	Width	Depth
1213	1,144m ²	58m	19.1m
2000	1,224m ²	62m	19.1m
2200	1,184m ²	60m	19.1m
2210	1,184m ²	60m	19.1m

3.3 Site Analysis

The preceding discussion helps identify the characteristics and features that underpin a site analysis to inform the design, siting and environmental considerations for the proposed development on the land. The key features identified for the site analysis include:

- The land has been identified for residential development and an existing consent has created residue lots for a specific tailored built form outcome.
- The built form outcomes for these lots are similar to that represented in previous applications that approved specific design outcomes to address minor non compliances with setbacks controls in Council's DCP, including design responses that address solar access and privacy for each dwelling and adjoining properties.
- Dwellings on these lots will have high amenity benefitting from proximity to the central park and can contribute positively to the public domain through high quality landscape outcomes. It is preferred for the dwellings to address the park rather than a side fence.
- The residents will enjoy access through the park to access Werrington Rail Station.
- The residue lots contain easements that benefit lots to the south.

4 Proposed Development

This DA seeks approval for integrated housing of 4 dwellings on each residue lot as well as subdivision to create separate Torrens title allotments for each dwelling. Minor associated civil works are also proposed. The DA is accompanied by the detailed design of the relevant subdivision works and seeks a SWC.

Similar to DA20/0200, the application seeks the ability to first subdivide the site, with each lot having a restriction on title that only allows the approved dwelling to be constructed on the resultant lot.

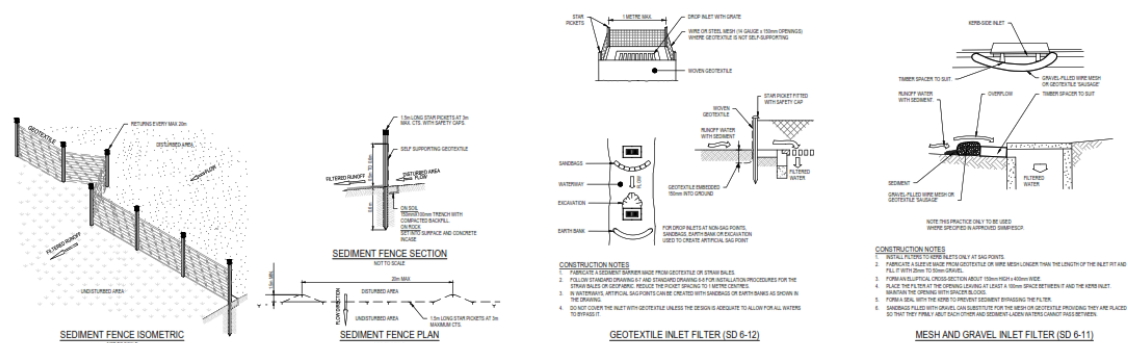
Each component is described in more detail in the sections below. Civil Works Plans, Draft Plan of Subdivision and Architectural drawings are provided at **Appendix B**, **Appendix C** and **Appendix D** respectively.

4.1 Site Civil Works

4.1.1 Sediment and erosion control

During construction appropriate sediment and erosion control measures will be implemented and maintained by the builder. As illustrated in **Figure 12** and in the Civil Works Plans (**Appendix B**), measures will include:

- erection of temporary security fencing and sediment control fencing.
- installation of sediment traps and barriers along stormwater flowpaths and inlet pits.
- implementation of appropriate treatment measures for construction vehicles to minimise off-site transfer of materials.
- location and formation of fill stockpiles adjacent or adjacent to areas of minimal cut and fill and use of appropriate covers and containment measures.



Source: Inspire

Figure 12 Extract of Erosion and Sediment Control Plan

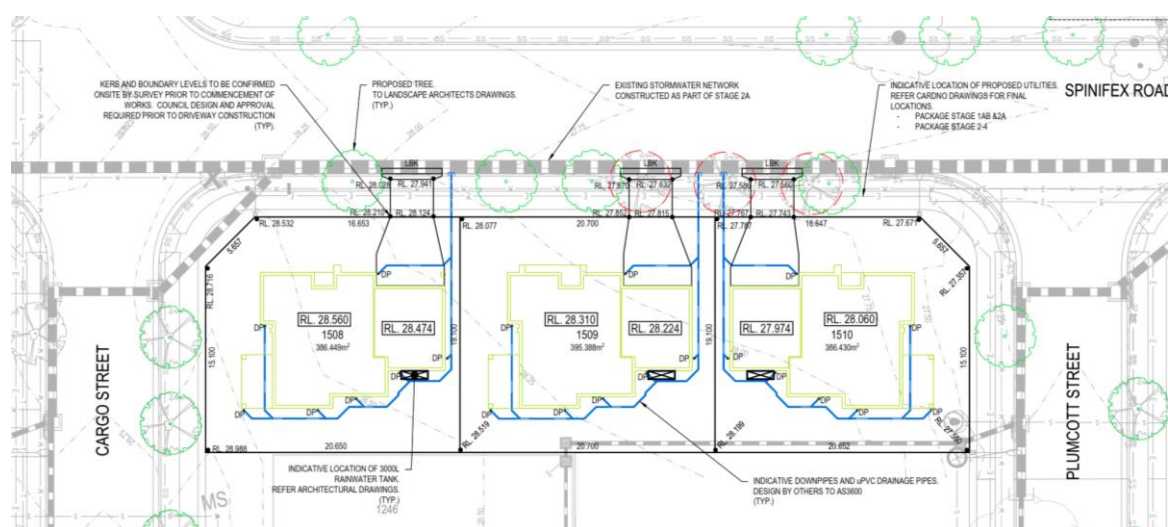
4.1.2 Site works

Minor site works are proposed to bench each lot for the proposed dwellings to accommodate the fall across the site. These works will vary across each of the 12 integrated housing sites, but will generally include benching the site.

Further details of the proposed extent of cut and fill and proposed site levels are detailed in the Civil Works Plans (**Appendix B**).

4.1.3 Stormwater drainage

Proposed integrated dwelling houses have been designed to connect into the proposed stormwater network to be delivered in the road network.



Source: Enspire

Figure 13 Snapshot of typical stormwater drainage

4.2 Subdivision

The proposal includes the subdivision of the land to create four (4) Torrens title residential lots on each of the four residue lots. The subdivision will be executed prior to the construction of the integrated dwellings (as described in Section 4.3 of this SEE). The relevant plans of proposed subdivision are provided in **Appendix C**. **Table 2** below outlines the dimensions of the proposed allotments.

Table 2 Lot dimensions

Parent Lot	Resultant Lot	Lot Size	Road Frontage	Depth
1213	1501	364m ²	(Cnr) 36.1m	19.1m
	1502	362m ²	13.5m	19.1m
	1503	364 ²	(Cnr) 36.1m	19.1m

Parent Lot	Resultant Lot	Lot Size	Road Frontage	Depth
2000	1508	386m ²	(Cnr) 37.3m	19.1m
	1509	395m ²	20.7m	19.1m
	1510	386m ²	(Cnr) 37.3m	19.1m
2200	1515	371m ²	(Cnr) 36.5m	19.1m
	1516	387m ²	20.3m	19.1m
	1517	371m ²	36.5m	19.1m
2210	1518	371	(Cnr) 36.5m	19.1m
	1519	387	20.3m	19.1m
	1520	371	36.5m	19.1m

4.3 Integrated Housing

This DA proposes the construction of 12, two storey detached dwelling houses; three dwellings on each of the four residue lots. The architectural plans provided at **Appendix D** detail the proposed design, private open space provisions, extent of overshadowing and landscaping for each dwelling.

Each proposed two storey dwelling house is designed to comprise four bedrooms and a double garage. The upper floor contains the bedrooms and bathrooms, with the downstairs area comprising of a separate kitchen area and open plan dining and living that connects directly to the alfresco and principal private open space (**PPOS**). The ground floor also contains a secondary living room, which is identified on the plans as a "media room". The additional living rooms has been provided at the northern portion of the dwellings to maximise the direct natural light into the area. A guest bedroom or study has also been provided on the ground floor adjacent to the main entrance.

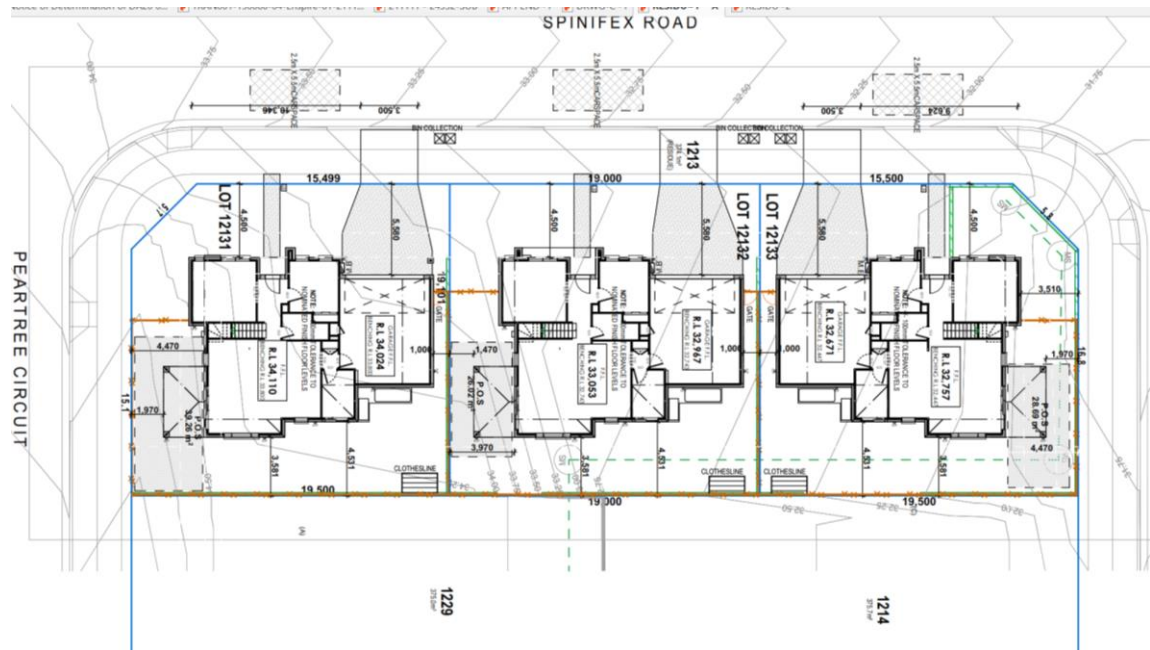
The proposed dwellings will each be finished in similar materials selected from a colour palette to provide consistency within the streetscape. The materials include a mix of face brickwork and colour render and feature timber. The front façade of each dwelling incorporates porches and varied setbacks. A modern design incorporating varying roof pitches and fenestration have been incorporated to reduce dominance from the street and clearly identify entrances to each of the dwellings.

The PPOS areas of each dwelling house have been located on the side of the dwellings. The location of the PPOS and alfresco area has had to balance privacy as well as solar access. As the rear of the dwellings are located to the south of the dwelling, the backyard will be partly overshadowed by the dwelling itself. By locating the alfresco towards the side of each dwelling, maintains the privacy of the occupants whilst maintaining some solar access and is preferential to locating the private open space in the front yards. It should also be recognised that the dwellings will benefit from being opposite the Central Park.

Across the 12 allotments three different dwelling house designs are proposed. Each residue lot will contain three detached dwellings. Architectural Plans for the proposed dwelling houses are provided

in **Appendix D**, including details of dwelling type, site coverage, setbacks and private open space. BASIX Certificates have been prepared for the dwellings and submitted with architectural package for each dwelling. Although the floor plans include subtle variations across the three designs, the dwellings are designed to be distinct when viewed from the street frontage.

A snapshot of the proposed siting of the dwellings is shown in **Figure 14**, with the particulars of each dwelling described in **Table 3 – 6**. The details of the proposals in **Table 3-6** also compare the proposal to the relevant controls in Section 12.8.5 of the DCP.



Source: Eden Brae

Figure 14 Snapshot of site plan

Table 3 Particulars of Dwellings on Lot 1213

Control		Lot 1501	Lot 1502	Lot 1503
House Type		Detached	Detached	Detached
Minimum Lot Size	Control	450m²	450m²	450m²
	Proposed	364m ²	362m ²	364m ²
Minimum Lot Frontage	Control	15m – 18m	12m-15m	15m – 18m
	Proposed	Complies 15.4m	Complies 19m	Complies 15.5m
Minimum POS Area	Control	50m²	50m²	50m²

Control		Lot 1501	Lot 1502	Lot 1503
	Proposed	Complies 100m ² (across 2 spaces)	Complies 95m ² (across 2 spaces)	Complies 98m ² (across 2 spaces)
Minimum POS Dimension	Control	4m	4m	4m
	Proposed	Complies 4m	Complies 4m	Complies 4m
Landscaping Site Coverage	Control	40%	40%	40%
	Proposed	Complies 230m ² (63%)	Complies 227m ² (62%)	Complies 226m ² (62%)
Front setback	Control	4.5m	3m	4.5m
	Proposed	Complies 4.5m	Complies 4.5m	Complies 4.5m
Secondary frontage setback (2m)	Control	2m	2m	2m
	Proposed	Complies 3.8m to building – 1.97 (rounded 2m) to alfresco	N/A	Complies 3.5m to building – 1.97 (rounded 2m) to alfresco
Side setback (0m – defined boundary and 900mm)	Control	0.9m	0m and 0.9m	0.9m
	Proposed	Complies 1m	Complies 1m	Complies 1m
Rear setback	Control	8m ground and 12m upper	8m ground and 12m upper	8m ground and 12m upper
	Proposed	3.6m & 4.5m	3.6m & 4.5m	3.6m & 4.5m

Table 4 Particulars of Dwellings on Lot 2000

Control		Lot 1508	Lot 1509	Lot 1510
House Type		Detached	Detached	Detached
Minimum Lot Size	Control	450m²	450m²	450m²
	Proposed	386m ²	395m ²	386m ²
Minimum Lot Frontage	Control	15m – 18m	12m-15m	15m – 18m
	Proposed	Complies 16.6m	Complies 20.7m	Complies 16.6m
Minimum POS Area	Control	50m²	50m²	50m²
	Proposed	105m ² (across 2 spaces)	106m ² (across 2 spaces)	91m ² (across 2 spaces)

Control		Lot 1508	Lot 1509	Lot 1510
Minimum POS Dimension	Control	4m	4m	4m
	Proposed	Complies 4m	Complies 4m	Complies 4m
Landscaping Site Coverage	Control	40%	40%	40%
	Proposed	Complies 251.3m ² (65%)	Complies 257m ² (65%)	Complies 251m ² (65%)
Front setback	Control	4.5m	3m	4.5m
	Proposed	Complies 4.5m	Complies 4.5m	Complies 4.5m
Secondary frontage setback (2m)	Control	2m	2m	2m
	Proposed	Complies 4.5m to building – 3m to alfresco	N/A	Complies 3.5m to building – 2.9) to alfresco
Side setback (0m – defined boundary and 900mm)	Control	0.9m	0m and 0.9m	0.9m
	Proposed	Complies 1m	Complies 1m	Complies 1m
Rear setback	Control	8m ground and 12m upper	8m ground and 12m upper	8m ground and 12m upper
	Proposed	3.6m & 4.5m	3.6m & 4.5m	3.6m & 4.5m

Table 5 Particulars of Dwellings on Lot 2200

Control		Lot 1515	Lot 1516	Lot 1517
House Type		Detached	Detached	Detached
Minimum Lot Size	Control	450m²	450m²	450m²
	Proposed	371m ²	387m ²	371m ²
Minimum Lot Frontage	Control	15m – 18m	12m-15m	15m – 18m
	Proposed	Complies 15.8m	Complies 20.3m	Complies 15.8m
Minimum POS Area	Control	50m²	50m²	50m²
	Proposed	Complies 100m ² (across 2 spaces)	Complies 102m ² (across 2 spaces)	Complies 98m ² (across 2 spaces)
Minimum POS Dimension	Control	4m	4m	4m
	Proposed	Complies 4m	Complies 4m	Complies 4m

Control		Lot 1515	Lot 1516	Lot 1517
Landscaping Site Coverage	Control	40%	40%	40%
	Proposed	Complies 236m ² (63%)	Complies 294m ² (64%)	Complies 236m ² (63%)
Front setback	Control	4.5m	3m	4.5m
	Proposed	Complies 4.5m	Complies 4.5m	Complies 4.5m
Secondary frontage setback (2m)	Control	2m	2m	2m
	Proposed	Complies 3.7m to building – 2.1 to alfresco	N/A	Complies 3.7m to building – 2.1m to alfresco
Side setback (0m – defined boundary and 900mm)	Control	0.9m	0m and 0.9m	0.9m
	Proposed	Complies 1m	Complies 1m	Complies 1m
Rear setback	Control	8m ground and 12m upper	8m ground and 12m upper	8m ground and 12m upper
	Proposed	3.6m & 4.5m	3.6m & 4.5m	3.6m & 4.5m

Table 6 Particulars of Dwellings on Lot 2210

Control		Lot 1518	Lot 1519	Lot 1520
House Type		Detached	Detached	Detached
Minimum Lot Size	Control	450m²	450m²	450m²
	Proposed	371m ²	387m ²	371m ²
Minimum Lot Frontage	Control	15m – 18m	12m-15m	15m – 18m
	Proposed	Complies 15.8m	Complies 20.3m	Complies 15.8m
Minimum POS Area	Control	50m²	50m²	50m²
	Proposed	Complies 100m ² (across 2 spaces)	Complies 102m ² (across 2 spaces)	Complies 98m ² (across 2 spaces)
Minimum POS Dimension	Control	4m	4m	4m
	Proposed	Complies 4m	Complies 4m	Complies 4m
Landscaping Site Coverage	Control	40%	40%	40%
	Proposed	Complies	Complies	Complies

Control		Lot 1518	Lot 1519	Lot 1520
		236m ² (63%)	294m ² (64%)	236m ² (63%)
Front setback	Control	4.5m	3m	4.5m
	Proposed	Complies 4.5m	Complies 4.5m	Complies 4.5m
Secondary frontage setback (2m)	Control	2m	2m	2m
	Proposed	Complies 3.7m to building – 2.1 to alfresco	N/A	Complies 3.7m to building – 2.1m to alfresco
Side setback (0m – defined boundary and 900mm)	Control	0.9m	0m and 0.9m	0.9m
	Proposed	Complies 1m	Complies 1m	Complies 1m
Rear setback	Control	8m ground and 12m upper	8m ground and 12m upper	8m ground and 12m upper
	Proposed	3.6m & 4.5m	3.6m & 4.5m	3.6m & 4.5m

5 Environmental Assessment

This section of the SEE assesses the proposed development against the planning framework and planning controls applicable to the site, including:

- Threatened Species and Biodiversity Impacts (section 1.7 of the EP&A Act)
- Matters for consideration relating to DAs (section 4.15 of the EP&A Act)
- Integrated development matters (section 4.46 of the EP&A Act).

5.1 Threatened Species

The EP&A Act contains provisions designed to ensure threatened species legislation is considered as part of a single development assessment process. The provisions as they apply to the proposed development are discussed below.

5.1.1 Biodiversity Impacts

The EP&A Act contains provisions designed to ensure threatened species are considered as part of the development application process.

Consent for vegetation and tree removal on the subject site was granted under DA 19/0704. The consent also approved the conservation of areas of ecological significance within the Central Park. As such, the site will be clear of vegetation before development occurs based on the existing approval and the proposal will not have any significant impact on areas of environmental significance.

5.2 Integrated Development

Sections 4.46 and 4.47 of the EP&A Act provide the opportunity for a DA to be lodged as 'integrated development' where the proposed development on the land would trigger an approval under other environmental or related legislation.

Table 7 below provides commentary on whether any part of the proposed development triggers a need for Council, as the consent authority for this DA, to obtain GTA's from other approval bodies.

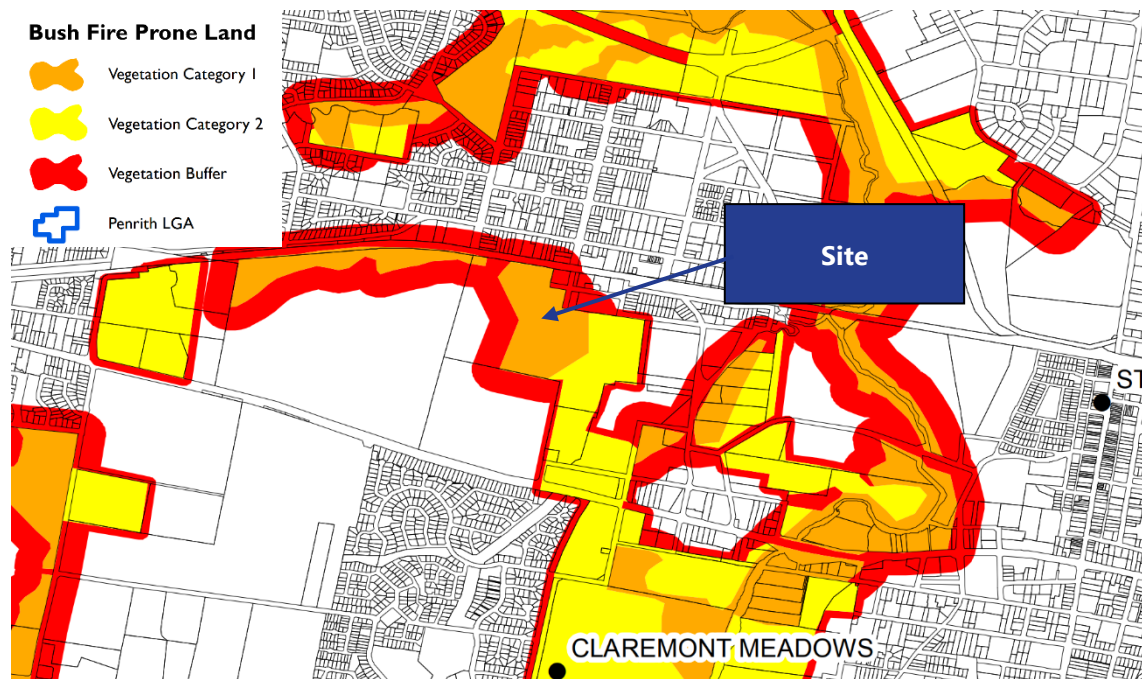
Table 7 Integrated Development Review

Legislation	Comment	GTAs
<i>National Parks and Wildlife Act 1974</i>	No known items or sites of indigenous archaeological significance have been identified on the site and it remains in the same condition at the times of the consideration and approval of the three previous DAs over the site.	No
<i>Protection of the Environment Operations Act 1997</i>	The implementation of appropriate environmental protection works will ensure that no licence will be required.	No
<i>Rural Fires Act 1997</i>	Section 100B of the <i>Rural Fires Act 1997</i> requires that a bush fire safety authority for development of bush fire prone land that could lawfully be	Yes

Legislation	Comment	GTAs
	<p>used for residential or rural residential purposes, or development of bush fire prone land for a 'special fire protection purpose'.</p> <p>Subdivision works are proposed as part of this proposal and therefore a bush fire safety authority is required to be obtained.</p> <p>Accordingly, the DA is to be referred to the RFS to obtain GTAs.</p> <p>A Bushfire Assessment Report has been prepared for the site by Building Code and Bushfire Hazard Solutions (BC&BHS) (refer to Appendix E) that identifies the necessary Bushfire Protection Measures, asset protection zones and BAL construction standards required to meet the requirements of <i>Planning for Bushfire Protection 2006</i> (PBP).</p>	
<i>Water Management Act 2000</i>	<p>A Controlled Activity Approval is required to be obtained for any activity being situated within 40 metres from the top of a river bank in accordance with section 91(2) of the <i>Water Management Act 2000</i>.</p> <p>The proposed works are not located within 40m of a riverbank and as such the proposed development does not require an integrated approval to satisfy this legislation.</p>	No
<i>Fisheries Management Act 1994</i>	No works proposed as part of this Application will harm defined marine vegetation or impede the movement or development of marine life within the Bonds Creek tributary. Therefore, no integrated approval is required under the <i>Fisheries Management Act 1994</i> .	No
<i>Heritage Act 1977</i>	No works are proposed that are referred to under section 57 of the <i>Heritage Act 1977</i> . Therefore, no integrated approval is required to address this legislation.	No
<i>Mine Subsidence Compensation Act 1961</i>	The land is not within a mine subsidence district.	No
<i>Petroleum (onshore) Act 1991</i>	No production lease is being sought.	No
<i>Mining Act 1992</i>	No mining lease is being sought.	No
<i>Roads Act 1993</i>	Road connection works are not proposed on RMS controlled classified or regional roads.	No

5.3 Bushfire Prone Land

Section 4.14 of the EP&A Act provides for the general consideration of bushfire hazard on land mapped as bushfire prone. Councils Bushfire Prone Land Map identifies that the site contains Category 1 Vegetation and therefore the application of PBP 2006 must apply in this instance (see **Figure 15**).



Source: Penrith City Council, 2014

Figure 15 Extract from Penrith City Council's Bushfire Prone Land Map

BC&BHS has prepared a comprehensive Bushfire Assessment Report (**Appendix E**) that provides an independent bushfire hazard determination together with appropriate recommendations for both new building construction and bushfire mitigation measures considered necessary having regard to construction within a designated 'bushfire prone' area.

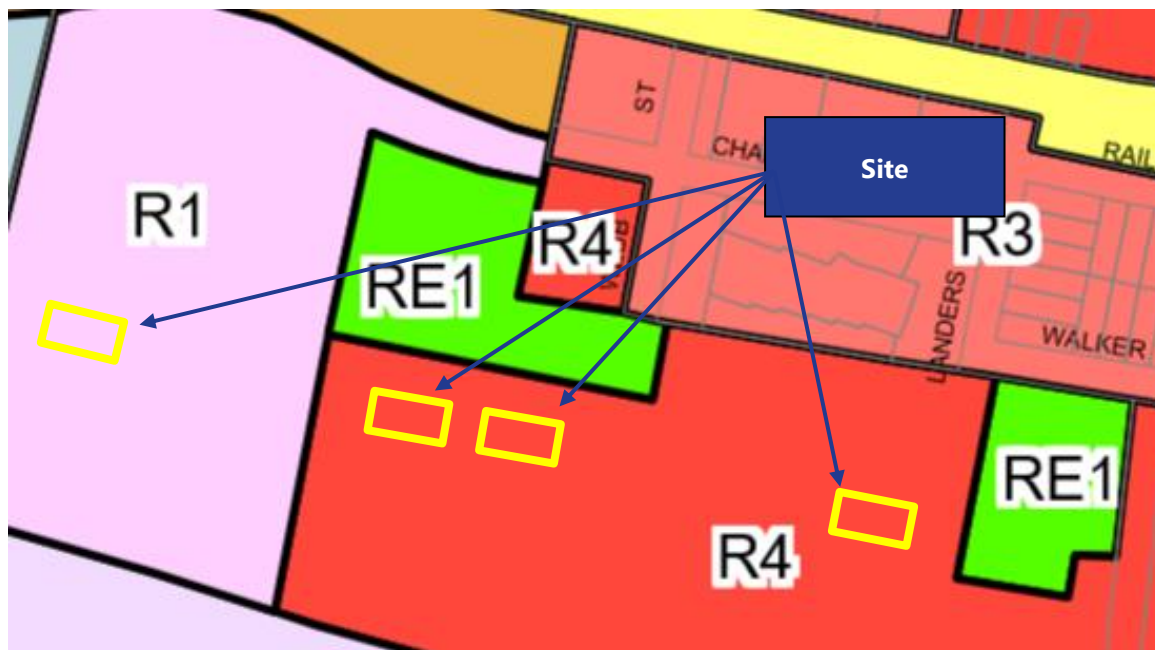
The highest Bushfire Attack Level (**BAL**) to the proposed dwellings have been determined from Table 2.4.2 of Australian Standards (**AS**) 3959 'Construction of buildings in bushfire-prone areas' 2009 to be BAL 12.5 for proposed development over Lot 2210 and BAL 29 for proposed development over Lot 2000 and 2210. No BAL rating is identified for Lot 1213.

5.4 Environmental Planning Instruments

5.4.1 Penrith Local Environmental Plan 2010

The PLEP 2010 is the primary environmental planning instrument regulating land uses within the Penrith LGA. Lot 1213 is located on land zoned R1 General Residential, whilst Lots 2000, 2200 and 2210 are zoned R4 High Density Residential (see **Figure 16**).

The proposal is defined under PLEP as development for subdivision and residential accommodation consisting of 12 x dwelling houses, which are permissible with consent in the R1 and R4 zones. Detailed consideration of the relevant clauses in PLEP 2010 is provided in Table 8 below.



Source: PLEP 2010

Figure 16 Land Use Zoning Map**Table 8** Assessment Against PLEP

Clause	Comment	Comply
Part 1 - Preliminary		
CI 1.2 Aims of Plan	<p>The proposal is consistent with the aims of the Plan as it:</p> <ul style="list-style-type: none"> Promotes potential residential built form outcomes associated with the proposed urban renewal of the SWUV precinct in line with Council's vision for the locality Supports the accommodation of a growing Penrith LGA by displaying a range of potential housing choices to promote greater housing diversity within the locality Provides for the urban renewal of a vacant land within the SWUV precinct that is close to existing infrastructure and services Provides for the delivery of future sustainable residential development that is sympathetic to and integrates with the existing urban qualities of the Werrington community, while ensuring the existing environmental qualities of the site are protected as much as possible Provides a coordinated approach to the management of stormwater to safeguard the locality from any potential hazards during storm events Incorporates the principles of ecologically sustainable development and proposes residential development that complies with the relevant BASIX's sustainable targets. 	Yes

Clause	Comment	Comply
Part 2 - Permitted and Prohibited Development		
CI 2.3 Zone objectives and land use table	<p>Developable land within the site is zoned R1 General Residential and R4 High Density Residential.</p> <p>The Applicant seeks consent for the subdivision land, construction of integrated dwellings and ancillary site preparation and bulk earthworks, road construction and associated civil works.</p> <p>The proposal is defined as subdivision of land and construction of residential accommodation consisting of 12 x dwellings. All works are permissible with consent in the zone under the gazetted land use table.</p>	Yes
CI 2.6 Subdivision – consent requirements	This DA seeks development consent for subdivision.	Yes
Land Use Table		
Zone R1 General Residential and R4 High Density Residential	<p>The proposal is consistent with the R1 General Residential R4 High Density Residential zone objectives as follows:</p> <ul style="list-style-type: none"> • The proposal will contribute to the diversity of housing within the environment established under DA19/0704 • The site design and layout will afford a high level of amenity and encourage the provision of affordable housing • It reflects the proposed and desired future character and dwelling densities of the locality. <p>The proposal was developed in consultation with Council and responds to the masterplan framework for the site.</p>	Yes
Part 4 – Principal Development Standards		
CI 4.1 Minimum subdivision lot size	Clause 4.1 of PLEP 2010 Lot Size Map does not identify a minimum lot size requirement for R1 and R4 zoned residential lands.	N/A
CI 4.3 Height of buildings	<p>Lot 1213 is subject to a maximum building height of 10m, whilst Lots 2000, 2010 and 2210 are subject to a maximum building height of 15m.</p> <p>The proposed building heights comply with the maximum building height controls.</p>	Yes
CI 4.4 Floor space ratio	The Floor Space Ratio Map does not identify a minimum floor space ratio that applies to the site.	N/A
Part 5 - Miscellaneous Provisions		
CI 5.1 Relevant Acquisition Authority	No part of the site is mapped on the Land Reservation Acquisition Map under the PLEP 2010.	Yes

Clause	Comment	Comply
CI 5.10 Heritage Conservation	The adjoining UWS land (i.e. Lot 101 DP 1140594) is mapped as containing a heritage item, being "Werrington Park House", garden and popular avenue (Item No.315). The proposal is consistent with the site's zoning and promotes the future urban development of the site, as envisaged by Council, such that it would not give rise to any additional matters not previously considered at the time of the SWUV precinct's rezoning.	Yes
Part 7 – Other Provisions		
CI 7.1 Earthworks	The site benefits from approved earthworks under DA19/0704. The proposal will include minor site grading and benching to accommodate suitable levels and fall to accommodate the relevant dwellings and subdivision.	Yes
CI 7.6 Salinity	Previous investigations undertaken on the site by Douglas Partners in 2007 identified the site as containing soils that ranged from non-saline to slightly saline and are assumed to comprise non to mildly aggressive soil conditions to both concrete and steel. The works under DA19/0704 will prepare the site for residential development. The works under DA19/0704 are conditioned to be undertaken in accordance with the process outlined in the Fill Management Protocol prepared by Douglas Partners Pty Ltd dated 1 October 2019. This protocol has considered the existing soil conditioner (see Appendix F).	Yes
CI 7.10 Essential Services	The site is serviced by all essential services. As outlined in the Civil Engineering and Infrastructure Report prepared by Cardno and approved under DA 19/0704, reticulation of utility services and the construction of lead-in mains for electricity, water, gas and sewer are required to service the predicted demand generated by the broader urban renewal of the property, including the subject proposal.	Yes

5.4.2 State Environmental Planning Policy No. 55 – Remediation of Land

This SEPP provides a State-wide planning approach to remediation and aims to promote the remediation of any contaminated land for the purpose of reducing the risk of harm to human health and/or the environment.

A previous Phase 1 Contamination Assessment undertaken by Douglas Partners in 2007 and subsequent Preliminary Phase 2 Environmental Assessment undertaken by WSP in 2009 for the South Werrington Sub Precinct provided a comprehensive assessment of the site's contamination history and urban development suitability from a contamination perspective. These investigations identified several areas of potential contamination across the site that were attributed to the site's former agricultural use and unauthorised waste disposal.

WSP's preparation of its Phase 2 Environmental Assessment included a soil sampling program that comprised of 40 test pits and the assessment of soil samples taken from those test pits and an assessment of groundwater conditions. Key features of the results included:

- typical background levels of heavy metals that did not exceed the relevant health risk based investigation levels or environmental investigation levels

- petroleum hydrocarbons, BTEX, pesticides, PCBs, PAHs or phenolics were not detected in any samples collected
- asbestos was not detected in soil samples, though a fibre cement sample of an existing pipe was confirmed to contain asbestos
- heavy metal concentrations in groundwater were consistent with the background levels for Bringelly Shales.

The assessment and findings detailed in Douglas Partners' Phase 1 assessment and WSP's Phase 2 assessment were subsequently reviewed by an NSW accredited site auditor. The site auditor's report prepared by Environ for the South Werrington Sub Precinct in 2009 and associated Site Audit Statement, concluded that the assessment and findings of the previous contamination assessments were satisfactory and complied with the relevant Environment and Protection Authority guidelines and technical policy documents. It was concluded that the site was suitable for the proposed range of intended land uses, including residential use with gardens and accessible soils.

Subsequent to the preparation of the assessments and site audit report detailed above, an asbestos clearance certificate was obtained from Pacific Environmental in 2016, confirming the satisfactory removal of the former cement pipe. Pacific Environmental also confirmed that the soils surrounding the former cement pipe did not contain any asbestos fibres.

The Site Auditor's report prepared by Environ in 2009 as well as the Asbestos clearance certificate dated 2016 are both provided in **Appendix G**. The Sydney Western City Planning Panel approved these documents in confirming that the site was suitable for residential development.

Table 9 below provides an assessment of the proposed development against the relevant provisions of SEPP 55.

Table 9 Assessment against relevant SEPP 55 provisions

Relevant Clause	Assessment/Comment
Clause 7	
(1) A consent authority must not consent to the carrying out of any development on land unless: (a) it has considered whether the land is contaminated, and (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.	In accordance with clause 7(1)(a), the consent authority can satisfactorily form the opinion that the site is suitable for the proposal having regard to the previous detailed assessments and investigations undertaken. Since those investigations and assessments were undertaken, the site has remained vacant with no known contaminating land uses or activities having been introduced on the site. It is therefore considered that the site remains in a suitable condition for the proposed residential land use and therefore, the requirements of clause 7 of SEPP 55 are satisfied.
(2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in sub clause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land	As noted above, previous assessments and investigations undertaken over the site confirm its suitability for the proposed range of land uses.

Relevant Clause	Assessment/Comment
concerned carried out in accordance with the contaminated land planning guidelines.	
(3) The applicant for development consent must carry out the investigation required by sub clause (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.	As noted above, previous assessments and investigations undertaken over the site confirm its suitability for the proposed range of land uses, including residential uses.
Clause 9	
For the purposes of this Policy, a category 1 remediation work is a remediation work (not being a work to which clause 14 (b) applies) that is: (d) development for which another State environmental planning policy or a regional environmental plan requires development consent, or	As noted above and as concluded in those technical reports prepared, no remediation of the site is considered necessary.
Clause 13	
(1) A category 1 remediation work is identified as advertised development, unless the remediation work is: (a) designated development, or (b) State significant development. (2) Pursuant to section 29A of the Act, the period specified in clause 65 (5) (d) of the Environmental Planning and Assessment Regulation 1994 is extended to 30 days in relation to development identified as advertised development by this clause.	This DA does not seek development consent for remediation works and is therefore not considered to be defined as 'advertised development'.

5.4.3 State Environmental Planning Policy (Infrastructure) 2007

The Infrastructure SEPP aims to facilitate the State-wide delivery of infrastructure by providing greater flexibility in the location of infrastructure and service facilities, identifying relevant environmental assessment categories for development and relevant matters to be considered and providing for consultation with relevant public authorities.

Clause 87 Impact of rail noise or vibration on non-rail development of the Infrastructure SEPP applies to the proposed development as the DA involves the development of residential accommodation that would be impacted by rail noise from the nearby Western Rail Line.

A comprehensive noise impact assessment has been prepared by SLR Consulting (**Appendix H**) that has assessed the predicted rail noise impacts on the proposed residential dwellings across the entire estate and supported the proposal under DA19/0704. The Acoustic Report is relevant to development the site subject of this DA and includes recommendations for mechanical ventilation to any development over the site. No additional material considerations for the buildings facades.

5.4.4 State Environmental Planning Policy – Building Sustainability Index (BASIX) 2009

The State Environmental Planning Policy introduced a Building Sustainability Index (BASIX) with which new residential development must comply to achieve energy savings and greater sustainability.

The proposal includes the construction of detached and abutting dwellings. BASIX Certificates demonstrating compliance with the Policy for each dwelling have been prepared and have been provided as part of the architectural package for each dwelling (refer to **Appendix I**).

5.4.5 Sydney Regional Environmental Plan No. 20 – Hawkesbury Nepean River

Sydney Regional Environmental Plan No 20 (SREP 20) is in place to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context. It seeks to achieve this by providing a series of strategies and planning controls that all development must be considered against. The proposal has been designed to integrate with the stormwater drainage design proposed under DA 19/0704 that will ensure the proposal does not conflict with this objective.

Further, it is considered that any risks relating to the protection of the Hawkesbury-Nepean River system would be considered and addressed through the recommendation of any conditions of consent relating to erosion and sediment control, and stormwater runoff mitigation.

5.5 Proposed Environmental Planning Instruments

There are no Proposed Environmental Planning Instruments that apply to the development.

5.6 Development Control Plans

The following section discusses the relevant planning controls in the Penrith Development Control Plan 2014 (**DCP**) that are relevant to the assessment of this DA.

5.6.1 Penrith Development Control Plan 2014

Penrith DCP describes the planning, design and environmental objectives and controls relevant to the SWUV to ensure orderly, efficient and sensitive development occurs in the Penrith LGA.

Vegetation management, Water management and Land management have all been considered under DA19/0704 and are not relevant to this DA. These sections of the DCP have therefore not been considered in this application. **Table 10** below provides a comprehensive detailed assessment of the proposed development against the relevant provisions of Penrith DCP, including the specific provisions for the SWUV Precinct as specified in Part C, E12 of the DCP.

Table 10 Assessment of DCP Controls

Control	Requirement	Comment	Compliance
Part C5 Waste Management			
5.1	Waste Management Plans	Waste Management Plans (Appendix J) for the site has been prepared detailing the types and volumes of waste streams.	Yes
5.2.1	Siting and design of waste bin storage areas for residential development	All proposed dwellings are provided with side setbacks to allow for the storage of bins behind the front building line. The siting of proposed dwellings and their driveways also allows for the presentation of bins to the future road along their frontage.	Yes
Part C6 Landscape Design			
	Landscape design	Street trees will be established under DA19/0704. In addition to the street tree planting, each dwelling will be improved by landscaping.	Yes
6.1.2	Environmentally sustainable designs	Environmentally Sustainable Design (ESD) measures are incorporated into the design of the proposal and have been achieved through the selection of native, indigenous species that provide a low water and low maintenance response to the site.	Yes
6.1.3	Neighbourhood amenity and character	The siting and layout of the proposal responds to the desired future landscape character of the locality. As outlined above, the design of the proposal has been undertaken in a coordinated manner to ensure it integrates with the proposed design of the adjoining Central Reserve and that approved under DA19/0704.	Yes
6.1.4	Site amenity	Proposed landscape designs for the individual homes provide for complementary plantings to soften the bulk and scale of the new built form and to present a pleasant streetscape setting. The sites will benefit from being in close proximity of the central park, however significant private open space areas are also afforded to the development as detailed in the section following this table.	Yes
Part C10 Transport Access and Parking			
10.2	Traffic Management and Safety	The proposed development does not include any changes to the existing road network approved under DA19/0704 – nor will it provide any significant increase in trip generation that has not been already considered in the surrounding road design.	Yes

Control	Requirement	Comment	Compliance
Part C11 Subdivision			
11.1	General subdivision requirements	<p>The proposed subdivision layout has considered the site planning principles outlined in this DCP. Key considerations during this early site analysis phase (under DA19/0704) included consideration of the existing site constraints (i.e. native vegetation and bushfire hazards) and surrounding land uses.</p> <p>The subject lots were identified as residue lots for these future dwellings. These sites would need to have additional considerations including:</p> <ul style="list-style-type: none"> - Easements adjoining the southern boundary, - Shallow depth, - The need to provide a positive streetscape, addressing Road No. 9, and the Central Park opposite. - Managing impacts of any buildings to the south resulting from a north south orientation. <p>The development of the site has therefore included integrated dwelling design that shows how the subdivision and dwelling design provide dwellings with a north south orientation, strong street address to Road No. 9 and the park opposite and solar access to PPOS in side yard areas.</p>	Yes
Part C12 Noise and Vibration			
12	Noise and vibration	<p>The Noise Impact Assessment prepared by SLR Consulting (Appendix H) supported the subdivision under DA19/0704 and provides a comprehensive assessment of the existing noise environment and considered the potential noise impacts associated predominantly with rail traffic noise.</p> <p>SLR concludes that future development over the lots subject of this application would not be adversely affected by external noise sources subject to implementation of mechanical ventilation.</p>	Yes
Part C13 Infrastructure and Services			
13	Infrastructure and services	The site is satisfactorily serviced by all essential services as outlined in the Civil Engineering and Infrastructure Report prepared by Cardno for the boarder urban renewal of the property under DA 19/0704.	Yes
Part 12.8.1 Preliminary			
12.8.1.2	Land to which the plan applies	The site is located within the SWUV Precinct.	Yes
12.8.1.3	Aims and general objectives	The proposal aligns with the Applicant's vision for the coordinated subdivision and urban renewal of	Yes

Control	Requirement	Comment	Compliance
		the broader locality. The proposal has been designed to sit within the Applicant’s larger subdivision under DA 19/0704.	
Part 12.8.2 Structure Plan			
12.8.2.1	Vision	The proposal is considered to be in keeping with the vision for the SWUV.	Yes
12.8.2.2	Urban structure	The proposal does not impact the urban structure as approved under DA19/0704.	Yes
12.8.2.3	Desired future character	<p>The proposed subdivision layout is considered to meet the desired future character of the SWUV precinct.</p> <p>The proposal has been designed in conjunction with the subdivision approved under DA 19/0704 and open space parklands DA.</p> <p>The design and layout of the proposed dwellings showcase the proposed product that is to be established within the broader residential subdivision.</p>	Yes
12.8.2.4	Dwelling yield	The proposal contributes to the overall density of Precinct A & B established under DA19/0704	Yes
Part 12.8.3 Public Domain			
12.8.3.1.4	Vegetation	All required vegetation removal is proposed under DA 19/0704.	Yes
12.8.3.1.5	Salinity	<p>Previous investigations undertaken on the site by Douglas Partners in 2007 identified the site as containing soils that ranged from non-saline to slightly saline and are assumed to comprise non to mildly aggressive soil conditions to both concrete and steel.</p> <p>The aggressivity of soil conditions is proposed to be further investigated prior to the commencement of bulk earthworks on the site. Douglas Partner’s FMP approved under DA19/0704 also includes salinity testing and selection criteria for future imported materials to ensure no adverse impacts arise to the site’s existing condition.</p>	Yes
12.8.3.1.6	Contamination		
Part 12.8.3.2 Transport and Accessibility			
12.8.3.2.1	Road network	The proposal does not propose any changes to the road network approved under DA19/0704.	Yes
12.8.3.2.2	Vehicular movement		Yes
12.8.3.2.3	Public transport		Yes

Control	Requirement	Comment	Compliance
12.8.3.2.4	Pedestrians and bicycles		Yes
Part 12.8.3.3 Streetscapes			
12.8.3.3.1	Landscape Character	<p>The proposed subdivision layout has been designed to ensure that a minimum of one street tree can be accommodated per residential lot, taking into consideration the minimum driveway crossover widths and waste bin presentation requirements.</p> <p>Proposed street tree planting for the site and the coordinated design response in conjunction with the proposed design for the Central Reserve, will ensure a pleasing streetscape is established.</p>	Yes
Part 12.8.4 Private Domain			
12.8.4.1	Subdivision	<p>The lots have been designed to accommodate the residential dwellings under this DA and are sufficient to ensure satisfactory solar access is provided.</p> <p>Additional justification of the proposed subdivision is provided following this table.</p>	Yes – subject to a minor justified variation.
12.8.4.2	Site Planning	<p>Principal Private Open Space</p> <p>All proposed dwelling designs propose the principal private open space (PPOS) behind the building line - towards the rear of the dwellings to provide privacy. The alfresco areas are located adjoining the living rooms and generally located on the side of the property to maximise the amount of solar access to the area on these northern orientated lots.</p> <p>Garages and Parking</p> <p>All proposed dwellings are designed to accommodate double car garages that are setback a minimum 5.5m in accordance with the DCP.</p> <p>Garage door openings are proposed at 4.75m wide.</p> <p>These widths are noted as being undersized compared to that required in the DCP (i.e. 5.8m double garage door openings).</p> <p>The variation is not considered detrimental to the effective functioning of the garages of each dwelling house and will satisfactorily accommodate two standard passenger vehicles. Further, the proposed design is noted to conform to the standard garage door opening widths presently being delivered in nearby land release areas.</p> <p>Building Footprints</p> <p>Front setbacks comply with the minimum requirements specified in Section 12.5.5 of the DCP and are addressed further below. An alternative solution has been proposed for the rear setback. Further justification is provided following this table.</p>	Yes

Control	Requirement	Comment	Compliance
		<p>Side setbacks and zero setbacks are sited in accordance with the DCP and accommodate the maintenance easements established under DA19/0704, that benefit the sites to the south.</p> <p>Dwelling Design</p> <p>The design of each dwelling provides an address to the street with clear and legible entries. Front entry porches are proposed that provide articulation to the front elevation design of each dwelling and will contribute to the variety of housing forms delivered in the streetscape and broader SWUV precinct streetscapes.</p> <p>Each garage is recessed behind the main building line of the dwelling house.</p> <p>Visual and Acoustic Privacy</p> <p>The proposed dwellings are designed to include appropriate measures to minimise privacy impacts (i.e. 1.5m sill heights and obscured glazing).</p> <p>Acoustic measures recommended in SLR Consulting's Acoustic Report (Appendix H) will be incorporated in the detailed design of each dwelling to ensure prescribed internal amenity levels for each dwelling house are achieved.</p> <p>Fencing</p> <p>All side and rear boundary fencing is proposed to be a minimum 1.8m in height.</p> <p>Site Facilities</p> <p>Side access and double garages are proposed for each dwelling house that will sufficiently cater for waste bin storage requirements.</p> <p>Sufficient space is also provided in the rear setback of each lot to accommodate external clothes drying facilities that will have direct sunlight access.</p>	
Part 12.8.5 Residential Development Forms			
12.8.5.7	Detached dwellings	<p>The proposal includes the construction of a detached dwelling on each lot.</p> <p>The proposal is assessed against the relevant lot requirements for this form of development in Table 3-5 in Section 4.3 of this SEE.</p> <p>Despite complying with site coverage, private open space and side setback requirements, the proposal does not meet the minimum front and rear setback controls (see Table 3-5).</p> <p>Additional justification for the variation to the controls is provided in the following section. The minor non-compliance is not considered detrimental nor would it result in an adverse built form outcome given the control is provided to ensure sufficient solar access and privacy is afforded to properties</p>	

Control	Requirement	Comment	Compliance
		adjoining the rear boundary of north orientated lots. The minor variation is further justified following this table.	

5.6.2 Proposed Variations to the Penrith DCP 2014

Section 4.15(3A) of the EP&A Act limits the ability for a consent authority to impose more onerous standards with respect to development than those set within a development control plan, cannot rely on development control plan precedents in connection with a development application and must ensure flexibility is applied to all development control plan provisions for which a development application does not comply.

Council's DCP provides circumstances where a variation may be considered, where the Applicant has demonstrated commitment to principles relevant to a particular development control. These matters have been considered and addressed in detail throughout this SEE. This accords with the general position in section 4.15(3A)(b) of the EP&A Act whereby controls such as these are to be flexibly applied.

Section 4.15(3A)(b) of the EP&A Act requires that if the DCP contains standards (including 'performance criteria') with respect to an aspect of the development and if the DA does not comply with those standards, the consent authority is to be flexible in applying those provisions and to allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development.

It was also found in Commissioner Brown's decision at paragraph 32 of *Proust & Gardner Consulting Pty Ltd v Camden Council [2015] NSWLEC 1082*, that if a consent authority is satisfied that the objectives of the controls are achieved, a variation to those controls can be approved. In this case, Commissioner Brown found that there was justification for the variation and granted approval.

This means that a development control plan's prescriptive standards are not the paramount consideration for consent authorities in their assessment and determination of DAs, but rather it is the intent of the standards that is most important and whether the intent can be achieved by the reasonable alternative solutions proposed by the applicant.

In the context of the proposal, the development represents a departure from the prescriptive standards related to rear setbacks (see **Tables 3-5**).

Despite the variation, the outcomes are site specific and responsive to the context of the development. The variations are not significant and result in a development that remains integrated, sustainable and attractive within the context of the broader SWUV precinct

Reasonableness of proposed variations

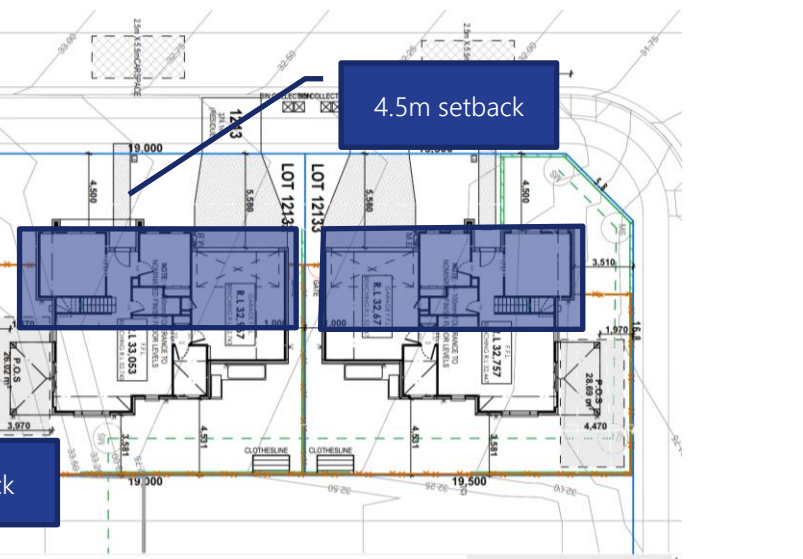
In accordance with section 4.15(3A) of the EP&A Act and as demonstrated in this SEE and supporting technical documentation, the design of the proposal is considered satisfactory and would not detrimentally impact on residential amenity and streetscape character.

The subdivision has been orientated, so that the future dwellings will have frontage to Road 09. Road 09 is located opposite the Central Park. Having the dwellings address Road 09 and the Central Park provides a better streetscape when viewed from the park, improves passive surveillance and ensures

positive outlook across the green space. An alternative east west
boundaries and 1.8m high fences addressing Road 09 and the
inferior outcome for the precinct as a whole.

eration results in lot depths of 19m. The PDCP requires lots with a rear setback of 8m at the ground level and 12m at the upper 5m for detached dwellings.

he required 8m rear setback would result in a building envelope 2.5m deep, at the upper storey (see **Figure 18**).



building envelope in blue

Therefore, strict compliance with the required setbacks does not provide the assurance that the proposed building would result in dwelling designs that are out of context with the neighbourhood. It must be recognised that these rear setback controls only ensure that privacy and solar access can be maintained to the rear yards of the adjoining dwellings. If the proposed building is not complying with these setback requirements, the building would result in the loss of the rear yards of the adjoining dwellings will maintain solar access to the rear yards of the adjoining dwellings. The minimum controls in Part D2 of the PDCP.

Index D show the shadow impact on Lots to the south of the dwellings to the south will have a rear yard of approximately the shadow diagrams at **Figure 19** show that the lots adjoining direct solar access to at least 40% of the backyard before 11am accordance with the relevant controls in Part D of the PDCP.

The dwellings to the south are able to be maintained as the rear boundary is the side boundary of the dwellings to the south. This also can be maintained.



Source: Creation Homes as marked up by GLN

Figure 18 Shadow diagram 11am-1pm

5.7 Planning Agreements

No VPAs apply to the site.

Notwithstanding, Lendlease formally made an offer to Council to enter into a VPA for the proposed broader development. The Letter of Offer outlines the proposed infrastructure that would be delivered, including the proposed embellishment of both parklands and dedication of the proposed E2 Environmental Conservation Reserve, the monetary value and corresponding offset against any likely section 7.11 development contribution obligations.

Lendlease will continue to liaise with Council staff to ensure a suitable negotiated outcome beneficial to all parties can be reached.

5.8 Environmental Planning and Assessment Regulation 2000

There are no additional matters than previously considered in this report under the EP&A Regulation which would impact upon the consideration of this Application.



5.9 Likely impacts of the Development

The likely impacts of the proposed development have been addressed in the previous sections of this SEE. In general, the proposed development is not considered to have any unacceptable impacts on the locality.

5.10 Suitability of the site

The site has been zoned for urban development under the PLEP 2010 and remains suitable for its intended purpose.

5.11 Submissions

The DA will be notified in accordance with the relevant DCP notification policy. The applicant requests the opportunity to review and comment on any submissions received.

5.12 Public Interest

The subject site is located within the SWUV precinct in the Penrith LGA. The proposal is considered to be in the public interest for the following reasons:

- The proposal is generally consistent with the planning controls for the Penrith LGA.
- The proposal will provide for the establishment of an integrated housing development that is consistent with the envisaged form and character of SWUV precinct, and in turn supports future housing within a growing metropolitan city that are close to jobs and services, consistent with the Greater Sydney Commissions' '30 minutes cities' vision.
- The proposal will positively contribute to the delivery of future social, environmental and economic benefits for the locality.

6 Conclusion

This integrated housing DA seeks approval for subdivision to create residential lots and the construction of three residential dwellings on four residue lots within the approved subdivision of the Kings Central Estate.

The proposal has been assessed against the relevant requirements of the EP&A Act, PLEP 2010 and Council's DCP and is considered to be an acceptable development that is consistent with the desired character of the area for urban development.

As addressed in this SEE, the proposed minor variation to the specific aspects of the PDCP fail to acknowledge the proposal is an integrated application that proposes a holistic built form outcome tailored to addressing the key amenity considerations for each lot and adjoining land, while providing a positive streetscape outcome and address to Central Park. The integrated solution presents a good planning outcome for the site when reviewed in the context of the relevant objectives for the SWUV precinct contained in Council's DCP.

The proposal, in conjunction with the broader subdivision of the property, will provide certainty of a desired urban outcome to support the continued development of the remaining areas of the SWUV precinct. Based on the information contained in this SEE, the proposal should be granted consent, subject to the appropriate conditions.



APPENDIX A: APPROVED PLANS DA19/0704



APPENDIX B: CIVIL PLANS



APPENDIX C: DRAFT PLAN OF SUBDIVISION



APPENDIX D: ARCHITECTURAL AND LANDSCAPE PLANS



APPENDIX E: BUSHFIRE REPORT



APPENDIX F: FILL MANAGEMENT PROTOCOL



APPENDIX G: ASBESTOS CLEARANCE STATEMENT



APPENDIX H: NOISE IMPACT ASSESSMENT



APPENDIX I: BASIX



APPENDIX J: WASTE MANAGEMENT PLAN



APPENDIX K: COST OF WORKS

