

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA20/0566
Proposed development:	Torrens Title Subdivision of Lot 12 into 3 Rural-Residential Lots, Construction of New Road and Fire Trail and Stormwater Works
Property address:	2 b Aldington Road, KEMPS CREEK NSW 2178
Property description:	Lot A DP 392643
Date received:	10 September 2020
Assessing officer	Sandra Fagan
Zoning:	SEPP - (WSEA) 2009 - ZONES IN1 + E2 SEPP WSA - Affected by Obstacle Limitation SEPP WSA - Affected by Wildlife Buffer Zone RU4 Primary Production Small Lots - LEP 2010
Class of building:	N/A
Recommendations:	Approve

Executive Summary

This Development Application seeks consent to subdivide a parcel of land, currently known as Lot 12 in DP 392643, into 3 lots, which are named Lots 21, 22, and 23. The site is part of the broader landholdings owned by Jacfin Pty Ltd. Lot 12 is currently part of a larger development site that already has development consent to be subdivided into 11 lots. The former 11 lot subdivision was approved under DA19/0785. Lot 12 was omitted from the previous development consent and would become a residue lot because matters relating to contamination, specifically risks from landfill gas (carbon dioxide), were not resolved at the time that development consent was granted.

The current proposal has now addressed the landfill gas risk, with a suitable risk assessment report being submitted. The report has concluded that the health risks are negligible and that no additional risk mitigation measures are required. Council's Environmental Management Officer has reviewed the landfill gas risk assessment and raises no objections to the proposed subdivision, subject to conditions.

The proposal also includes works to construct a new public road, as an extension to the road approved in DA19/0785, which will provide access to the proposed 3 new lots. Stormwater drainage works including swales adjacent to the road to convey stormwater are also proposed.

The development has been lodged as Integrated Development due to approval being required from the NSW Rural Fire Service. In this regard, General Terms of Approval have been received from the Rural Fire Service. In addition, the proposal includes an extension of the fire trail endorsed in development consent DA19/0785.

The proposed subdivision and works are permitted with consent in the site's RU4 - Primary Production Small Lots zone, and the minimum lot size requirement of 2 hectares (20,000sqm) is also met for each proposed lot.

Clause 7.9 of the Penrith LEP, regarding sites that may be affected by aircraft noise, relates to the site. Further, although the State Environmental Planning Policy (Western Sydney Aerotropolis) 2020 does not apply to the Development Application (because of the SEPP's Savings and Transitional Provisions), consideration of the relevant SEPP clauses is included in this planning report. These specifically relate to obstacle limitations, noise exposure, and wildlife buffer.

At the time the previous proposal, DA19/0785, was considered by Penrith City Council, the applicant had a concurrent application with Fairfield City Council, being DA445.1/2019. This was for a site at 1-9 Greenway Place, Horsley Park. This Development Application was subsequently approved on 14 September 2020. It allows for a torrens title subdivision to create 2 new non-urban residential allotments and the construction of a new road from Greenway Place, Horsley Park. This new road will become the main access point for the development site's rural-residential lots and it will connect the 11 lots approved under the previous Penrith City Council application as well as the proposed 3 new lots under this current application. Therefore both applications determined by Penrith City Council are dependent on the road approved by Fairfield City Council being constructed by the applicant as well as the road approved by Penrith City Council in DA19/0785.

The application was notified to surrounding landowners, including those located within the Fairfield City Council local government area. The application was also advertised in accordance with the requirements for Integrated Development. No submissions have been received.

The proposed development is recommended for approval, subject to conditions.

Site & Surrounds

The subject site is part of a larger lot known as Lot A in Deposited Plan 392643. It has an address of 2B Aldington Road, Kemps Creek and is part of the land holdings owned by Jacfin Pty Ltd.

Lot A (as a whole) is currently open, rural grasslands, with a single unoccupied rural dwelling house on the south western part of the site. Adjoining the site along the eastern boundary are dwelling houses for properties fronting Greenway Place, which back onto the subject site and are located within the Fairfield City Council local government area. Directly along the subject site's southern boundary is an unformed road reserve which connects onto Horsley Road to the east. Adjoining the subject site to both its northern and western boundaries are industrial lots which have been developed for industrial warehouses and is commonly known respectively as 'Oakdale Central' and 'Oakdale South'.

The particular portion of Lot A which comprises the development site for the purpose of this current application is known as Lot 12 and is located along the north-eastern corner of the land as shown in the aerial view below (outlined in red). Lot 12 was created as a residue lot in development consent DA19/0785 which on 21 August 2020, approved 11 lots to be carved from the site (outlined in white below) with Lot 12 (outlined in red) becoming the residual lot.



The portion of the Jacfin site shown in white outline above was rezoned from IN1 General Industrial (in the Western Sydney Employment Area SEPP) to RU4 Primary Production Small Lots (in the Penrith LEP). This rezoning came out of a recommendation from the Planning Assessment Commission in 2013, at a time that the broader Jacfin site was proposing industrial development of their land holdings. The rezoning of the subject site to a rural / residential zone was intentional so as to provide more of a buffer between the future industrial developments and surrounding residential development.

Proposal

The proposed development is to further subdivide residue Lot 12, that was created by development consent DA19/0785, into 3 new lots, named Lots 21, 22, and 23 and to construct a public road and drainage infrastructure. Each lot will be greater than 2 hectares in size, with Lot 21 being 2.183Ha, Lot 22 being 2.108Ha, and Lot 23 being 2.001Ha. These are shown in red outline in the image below.

A future 20m wide road approved in the previous consent (Road No.01) is proposed to be extended in the current application, to provide access to the proposed 3 lots. Future Road No.1 will connect to future Road No.2 (approved by the consent issued by Fairfield City Council) and will then connect with Greenway Place. The proposed works also include an extension to the fire trail located on part of the western boundary of the proposed lots.

The civil drawings were amended to clearly differentiate the area of works relating to Lot 12, the subject of this proposal, while still providing the context associated with the existing development consent for DA19/0785, which is referred to as the 'parent consent'. In addition, the civil drawings were amended to remove a proposed retaining wall along Road No.1 as this wall was not endorsed as part of the 'parent consent'.

The proposed development includes three piped outlets discharging to downstream properties. Any flow from upstream catchments is accommodated by combining with the networks of drainage management approved in the 'parent consent'. This involves piped drains alongside Greenway Place to take existing piped flows and a drainage culvert across the proposed road to take flows along existing water courses. The road design will include an open swale on either side of a paved surface (not kerb and gutter) given that the area is rural / residential. The design does not include water quality treatment and does not include internal drainage within each individual lot.



Many of the supporting documents lodged with this application are the same reports lodged with the previous application, DA19/0785. This is acceptable in this instance as the documents include and relate to residue lot 12 which is proposed to be subdivided in the current Development Application. The recommended Condition 1, which lists the approved drawings and supporting reports, will make reference to endorsing the reports only in so far as they relate to the subject site.

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy (Western Sydney Aerotropolis) 2020
- State Environmental Planning Policy (Western Sydney Employment Area) 2009
- State Environmental Planning Policy No 55—Remediation of Land
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

• **Section 1.7 - Application of Part 7 of Biodiversity Conservation Act 2016**

Much of the land was historically cleared for grazing and now contains exotic pasture grassland. There are some areas of relatively sparse native groundcover species and two small copses of remnant eucalypts, as well as some trees surrounding proposed lot 21. The documentation also states that the proposal would not involve the removal of any relevant or significant fauna.

The site is not identified on the Biodiversity Values Map as containing vegetation having biodiversity value. Council's Biodiversity Officer has requested that the scattered trees that exist on the land be retained. These are mostly located along the northern edge boundary of the site and are therefore unlikely to impact on the future development of the proposed lots. The applicant has also been made aware of this requirement. A suitable condition is included in the recommendation.

• **Section 4.14 - Bushfire prone land assessment**

The site is identified as being bush fire prone land. The proposed subdivision for future rural-residential purposes therefore requires approval from the NSW Rural Fire Service, pursuant to Section 100B of the Rural Fires Act. In addition, the development is Integrated Development pursuant to Section 4.46 of the Environmental Planning and Assessment Act 1979. In this regard, the NSW Rural Fire Service have provided their General Terms of Approval. This is further discussed below.

• **Section 4.15 - Evaluation**

The development proposal has been assessed in accordance with the matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979. Having regard to those matters, the issues identified for further consideration are discussed throughout this assessment report.

• **Section 4.46 - Integrated development**

The proposed development is defined as Integrated Development under Section 4.46 of the Environmental Planning and Assessment Act 1979 as a Bush Fire Safety Authority under Section 100B of the Rural Fires Act, 1997 would be required. In this regard, the NSW Rural Fire Service have provided their concurrence and General Terms of Approval via correspondence dated 3 November 2020. The conditions relate to; asset protection zones; positive covenants to maintain the asset protection zone; access to roads and fire trails; and water and utility services. Suitable conditions are included in the recommendation.

Section 4.15(1)(a)(i) The provisions of any environmental planning instrument

State Environmental Planning Policy (Western Sydney Aerotropolis) 2020

The subject site is **not** located within the area identified as the Western Sydney Aerotropolis. In addition, the Development Application was lodged prior to the Aerotropolis SEPP being adopted. The Savings Provision at Clause 53 of the SEPP mean that the relevant SEPP clauses will not apply to the proposed development. Notwithstanding this, for completeness and in the public interest, this assessment report considers the relevant provisions and aims of the SEPP.

Although the site is not located within the Aerotropolis boundaries, some SEPP maps and clauses affect the subject site. These generally relate to aviation safety, noise and amenity for future users.

Clause 19 - Aircraft Noise: The site is identified on the Noise Exposure Contour Map as being located within the 'ANEC between 20 and 25' (Australian Noise Exposure Concept (units)). The objectives of Clause 19 relate to preventing certain noise sensitive development on land near the Airport, and protecting the operations of the Airport. In particular Subclause (2) does not permit 'noise sensitive development' to be located on land that is in an ANEC contour of 20 or greater. 'Residential accommodation' is included in the definition of 'noise sensitive development'. The Penrith LEP defines 'dwelling houses' as a type of 'residential accommodation'.

This would potentially mean that dwelling houses would not be permissible on the land. However, Subclause (4) goes on to qualify that 'despite subclause (2)' dwelling houses on such land can be permitted if there were no dwellings on the land (before the commencement of the SEPP) and if dwelling houses were previously permitted on the land. The subject site would meet these two prerequisites. Subclause (4) also requires the consent authority to be satisfied that the development will meet indoor design sound levels. The issue of noise is discussed in the LEP section of this report below. In short, the acoustic report submitted with the application states that future dwellings can be designed to meet indoor noise criteria.

Clause 21 - Wildlife Hazards: The site is identified on the Wildlife Buffer Zone Map as being located within a 13kms wildlife buffer zone of the Airport. The objective of Clause 21 is to regulate development on land surrounding the Airport where wildlife may present a risk to the operation of the Airport. Certain types of development then trigger the requirements for further consideration under Clause 21. The proposed development, being subdivision for a potential rural-residential use/dwelling, is not one of the types of uses that warrant additional consideration under the SEPP with regard to wildlife and the operation of the Airport. Should a different type of use be proposed in the future, the Aerotropolis SEPP will apply to that development.

Clause 22 - Wind Turbines: The site is identified on the Wind Turbine Buffer Zone Map as being located within a 30kms Wind Turbine Buffer Zone. This clause regulates the construction of wind turbines near the Airport. The proposed development does not relate to this type of use and is therefore not relevant to the proposal.

Clause 24 - Airspace operations: The site is identified on the Obstacle Limitation Surface Map as being located within a '222.2m Horizontal Section'. This clause requires additional consultation with the relevant airport authority if the prescribed airspace is breached, or the proposal is for a 'controlled activity'. The Airports Act 1996 defines a controlled activity which in general means activities that breach the prescribed airspace or cause sunlight glare, artificial light, gas, steam, and wind turbulence. The intent of the clause is to protect the airspace above flight paths. The proposed development, being a rural-residential subdivision, including roadworks and stormwater works is not considered to be a 'controlled activity' and is not considered to be of a nature or scale that would warrant further consultation with the airport operators.

State Environmental Planning Policy (Western Sydney Employment Area) 2009

The broader Jacfin site straddles the boundary of land covered by the Western Sydney Employment Area SEPP 2009 and therefore Council's property database picks up that this SEPP applies to the land. However, the proposed subdivision only involves land that falls within the RU4 zone of the Penrith LEP 2010. Therefore the SEPP objectives and clauses do not apply to the proposed development.

State Environmental Planning Policy No 55—Remediation of Land

This planning policy requires the consent authority to be satisfied that the land will be suitable for the proposed development either in its current state, or after remediation. In this case, the subject land was removed from the previous development consent because of concerns of potential impacts from landfill gas from the adjoining industrial site to the north.

The applicant has now submitted a report, dated February 2021, which carries out a landfill gas risk assessment in relation to the presence of carbon dioxide in the subsurface of the subject site. The site is located 160m south of a former (and now capped) landfill which is part of the adjoining CSR (quarry and brick manufacturer) site. The investigations for the previous Development Application DA19/0785, detected carbon dioxide in subsurface levels, although no methane was detected. The current risk assessment report also evaluates the potential risks to workers involved in excavation of the site as well as future residents.

The report concludes that *"risks to health are negligible and no risk mitigation measures are required for the proposed development"*. The report was reviewed by Council's Environmental Management Officer who has found the report to be satisfactory and has raised no objection to the proposal, subject to conditions.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

This Regional Policy aims *"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"*. The Policy requires Council to assess development proposals with regard to general and specific considerations, policies and strategies. Council's Waterway Officer and Development Engineer have reviewed the proposal and raised no objections subject to conditions. Those conditions relate to stormwater runoff, construction methods and the requirement for a water quality strategy. Subject to conditions, the proposal will accord with the aims and objectives of the Plan.

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Permissibility	Complies - See discussion
Clause 2.3 Zone objectives	Complies
Clause 2.6 Subdivision - consent requirements	Complies
Clause 4.1 - Minimum subdivision lot size	Complies - See discussion
Clause 4.2A Residential development and subdivision prohibited in certain rural,	N/A
Clause 4.2 Rural Subdivision	N/A
Clause 7.1 Earthworks	Complies - See discussion
Clause 7.2 Flood planning	Complies - See discussion
Clause 7.6 Salinity	Complies - See discussion
Clause 7.7 Servicing	Complies - See discussion
Clause 7.9 Development of land in the flight paths of the site reserved for the proposed	Complies - See discussion

Clause 2.3 Permissibility

While 'subdivision' as a category of development is not specifically listed in the Land Use Table of the LEP for the RU4 Primary Production Small Lots zone, 'dwelling houses' are listed as a permitted use with consent. It is likely that the future development of the site will be for a dwelling house. Therefore, the proposed subdivision and works to make the site suitable and accessible is permitted with consent in the zone.

Clause 4.1 - Minimum subdivision lot size

The Penrith LEP requires a minimum lot size of 2 hectares (20,000 square metres). The proposed lots range in size from 2.001ha to 2.183ha, which complies with the control.

Clause 7.1 Earthworks

Construction of the road extension requires some cut and fill activities. The amount of cut and fill is minor in nature, with no substantial changes to levels or need to remove soils from the site, or bring material to the site.

Clause 7.2 Flood planning

The subject site is within the catchment of Ropes Creek but is not impacted by flooding. Council's Engineer has raised no concerns on grounds of flooding.

Clause 7.6 Salinity

The salinity investigation submitted with the application states that the overall site contains soils ranging in salinity levels. The report includes a Salinity Management Plan and recommends additional testing if any earthworks are deeper than 3m. The proposed development does not include such earthworks and therefore the submitted report is adequate and is included in the conditions of consent as a report that is to be adhered to.

Clause 7.7 Servicing

Similar to the arrangement accepted for the previous 11 lot subdivision, the proposed (new) 3 lots will require access to utilities and services. The applicant has provided information stating that a water supply is likely to be achieved by connecting to the town supply in Horsley and Greenway Roads, which are supplied from Sydney Water's Cecil Park Reservoir.

Sewage is likely to require the lots to install individual Onsite Sewage Management Systems. In this regard, the application includes a report detailing how onsite effluent disposal can be achieved and provides a plan showing potential likely future building pads and OSSM locations. The proposed lots are large enough to accommodate a future OSSM system which will require consent when the lots are further developed.

Electricity will be required via a condition of consent.

Clause 7.9 Development of land in the flight paths of the site reserved for the proposed

Clause 7.9 of the Penrith LEP relates to development of land in the flight paths of the site reserved for the proposed Second Sydney Airport. The clause pre-dates the Western Sydney Aerotropolis SEPP which has been discussed above. Clause 7.9 is provided in full below. It reads:

(1) The objective of this clause is to ensure that development in the vicinity of the proposed Badgery's Creek airport site —

(a) has regard to the use or potential future use of the site as an airport, and
(b) does not hinder or have any other adverse impact on the development or operation of an airport on that site.

(2) This clause applies to development that —

(a) is on land that —

(i) is near the proposed Badgery's Creek airport site, and
(ii) is in an ANEF contour of 20 or greater, and

(b) the consent authority considers is likely to be adversely affected by aircraft noise.

(3) *Before determining a development application for development to which this clause applies, the consent authority —*

(a) must consider whether the development will result in an increase in the number of dwellings or people affected by aircraft noise, and

(b) must consider the location of the development in relation to the criteria set out in Table 2.1 (Building Site Acceptability Based on ANEF Zones) in AS 2021—2000, and

(c) must be satisfied that the development will meet AS 2021—2000 with respect to interior noise levels for the purposes of —

(i) if the development will be in an ANEF contour of 20 or greater—centre-based child care facilities, educational establishments, entertainment facilities, hospitals, places of public worship, public administration buildings or residential accommodation, and

(ii) if the development will be in an ANEF contour of 25 or greater—commercial premises, hostels or hotel or motel accommodation.

At the time the Development Application was lodged, the subject site was identified as being outside of the existing ANEF 20 contour for the Second Sydney Airport when viewed in relation to the operation of an initial single runway planned to open in December 2026. The Aerotropolis SEPP identifies the site as being located within a Noise Exposure Contour of between 'ANEC 20 and 25'.

The acoustic report submitted with the application appears to be comprehensive. It states that future development should be constructed to achieve internal noise levels consistent with Australian Standard 2021:2015 as this will take into account a future second runway. It states that sites that fall within the 20-25 ANEF are classified as being 'conditionally acceptable for residential'. Future dwellings will need to be acoustically designed and are likely to require the following:

- *"Acoustic insulation in the ceilings;*
- *Windows to be laminated glass (such a 6.38mm laminated glass);*
- *Brick veneer or lightweight walls with acoustic insulation in the cavities; and*
- *Ventilation to meet the National Construction Code with windows and doors closed."*

Therefore, for the purpose of Clause 7.9 of the LEP, it is considered that the proposed subdivision is capable of hosting future residential dwellings, subject to the dwellings being acoustically designed and constructed to take future airport noise into account.

The acoustic report has also examined the cumulative impacts from noise generated from the existing and future industrial uses on adjoining lands. The report recommends that a 2m high fence would be required between the site and the residue Jacfin lands, and has taken into account the existing boundary barriers that are in place at the Oakdale industrial lands. The matter of fencing for acoustic mitigation is a matter that will be required when the adjoining lands are developed, or at the time that the rural-residential lots are developed for housing.

Section 4.15(1)(a)(ii) The provisions of any draft environmental planning instrument

The Draft Environment SEPP and the Draft Remediation SEPP would apply to the proposed development. These policies seek to simplify the planning rules for a number of water catchments, waterways, and urban bushland areas, as well as consolidate remediation requirements. The matters covered by these draft SEPP's has been considered during the assessment of the application. The proposed subdivision is in accordance with the general aims and objectives of the draft SEPP's.

Section 4.15(1)(a)(iii) The provisions of any development control plan

Development Control Plan 2014

Provision	Compliance
DCP Principles	Complies
C1 Site Planning and Design Principles	Complies
C2 Vegetation Management	Complies
C3 Water Management	Complies
C4 Land Management	Complies
C5 Waste Management	Complies
C6 Landscape Design	N/A
C7 Culture and Heritage	N/A
C8 Public Domain	N/A
C9 Advertising and Signage	N/A
C10 Transport, Access and Parking	Complies
C11 Subdivision	Complies
C12 Noise and Vibration	N/A
C13 Infrastructure and Services	Complies
E6 Erskine Business Park controls	Complies

Section 4.15(1)(a)(iiia) The provisions of any planning agreement

The landowner entered into a Planning Agreement with the Minister in relation to the Concept Approval for industrial development. This has no bearing on the current proposed development for the new 3 lots. A condition is recommended to state that the onus remains with the applicant to ensure that all matters relating to the Planning Agreement are met and that this development consent does not derogate from that Agreement.

Section 4.15(1)(a)(iv) The provisions of the regulations

The relevant requirements of the Regulations have been considered and the proposed development is capable of complying, subject to conditions.

Section 4.15(1)(b)The likely impacts of the development

The likely impacts of the proposed subdivision and works has been assessed in this planning report. Previous issues relating to landfill gas risks has been considered, as well as impacts to vegetation, proposed layout and access to lots, noise exposure and the more recent controls in the Aerotropolis SEPP. The planning conclusion is that the proposed development, subject to conditions, is suitable for the site and will align with the planning objectives for the area.

Section 4.15(1)(c)The suitability of the site for the development

The proposed lots to be created will be capable of accommodating a future residential use, most likely in the form of a single dwelling house. The proposed shape of the lots is linear and generally rectangular. The applicant has indicated where possible building pads will be located as well as future onsite sewage management systems (although this plan will not form part of the development consent).

The contamination assessment has found that no further mitigation measures are necessary. The proposed works, including the extension of a public road and fire trail, as well as the proposed stormwater drainage works will make the site suitable for the next stage of development.

The acoustic report submitted with the application takes into account noise from the future airport and industrial uses. The report concludes that the site can accommodate dwellings subject to design and construction meeting specific Australian Standards.

The proposed development will also achieve the intent of the site through the rezoning from industrial land to rural-residential land, which was envisaged when the Concept Approval for the surrounding industrial uses was approved.

Section 4.15(1)(d) Any Submissions

Community Consultation

The application was advertised and notified, with no submissions being received.

Referrals

The application was referred to the following stakeholders and their comments have formed part of the assessment:

Referral Body	Comments Received
Development Engineer	No objections - subject to conditions
Environmental - Environmental management	No objections - subject to conditions
Environmental - Waterways	Not supported, however conditions provided
Environmental - Biodiversity	No objections - subject to conditions

Development Engineer

Council's Engineer has clarified that proposed lot 23 will drain to the future Road No.1, and suitable conditions relating to easements to drain to the road are included in the conditions of consent. However, it is likely that lots 21 and 22 will naturally drain to the west and follow a natural depression in the land towards Ropes Creek. This is shown on Civil Drawing number 801. The adjoining land to the west is also part of the broader Jacfin site and will be developed for industrial uses. Council's Engineer has confirmed that an easement for these lots to drain in this manner is not required as the land is rural-residential which normally should not require formal easements. In addition, the industrial lots will need to accommodate flows at the time they redevelop.

Environmental - Waterways

Council's Waterways Officer requested that all water quality matters be addressed up front as part of the application documentation. In this regard, it appears that no stormwater treatment is detailed for the proposed 3 lots, but that the roads are proposed to be treated with swales. In particular, additional documentation was submitted with modelling to show that the roadside swales are appropriate to meet the pollutant removal targets required by Council.

The applicant has requested that water quality and treatment details for the individual lots be managed through conditions of consent, as this was the method used when Council assessed and approved the previous subdivision application for the 11 lots (DA19/0785). In particular, the applicant has requested that a similar or same condition as that used for DA19/0785 (being Condition 10) be used in this instance.

Given that the approval for the 11 lot subdivision was comparatively recent and approved more lots than those currently proposed (11 lots approved compared to 3 lots proposed), it is a reasonable argument that Council adopt the same approach to water quality treatment through conditions of consent in this instance. This was discussed with Council's Waterways Officer and suitable conditions have been recommended.

The conditions duplicate those imposed on DA19/0785 and will require a strategy to be provided to Council for approval and prior to the issue of the Subdivision Works Certificate.

Section 4.15(1)(e)The public interest

The proposed development will be in the public interest as it will allow the rural-residential development of land, which is aligned with the zoning objectives and planning controls for the site. Conditions recommended on the consent will mitigate impacts to the environment and surrounding area.

Section 94 - Developer Contributions Plans

Development contributions pursuant to Section 7.11 are applicable to the proposed development. The contribution has been calculated for the three proposed additional lots. No credit has been applied for the existing Residue Lot 12 that was created by the previous Development Consent DA19/0785. This is because that previous consent already gave credit for the one (larger) existing lot and the residue lot that was created was not charged a levy. Therefore, this proposal is based on the creation of three new lots. The following contributions apply:

- Cultural Facilities - \$1,710;
- District Open Space - \$19,130; and
- Local Open Space - \$6,919.

The total amount is **\$27,759.00**. Suitable conditions of consent are included.

Conclusion

The proposed lots to be created will be capable of accommodating a future residential use, most likely in the form of a single dwelling house. The proposed shape of the lots is linear and generally rectangular. The applicant has indicated where future building pads could be located as well as future onsite sewage management systems.

The contamination assessment has found that no further mitigation measures are necessary with regard to landfill gas risk. The proposed works, including the extension of a public road and fire trail, as well as the proposed stormwater drainage works will make the site suitable for a future development.

The acoustic report submitted with the application takes into account noise from the future airport and industrial uses. The report concludes that the site can accommodate dwellings subject to design and construction meeting specific Australian Standards.

The proposed development will also achieve the intent of the site through the rezoning from industrial land to rural-residential land, which was envisaged when the Concept Approval for the surrounding industrial uses was approved.

Recommendation

That DA20/0566 for torrens title subdivision to create 3 new lots with works, including extension to a public road and fire trail, and stormwater works at 2b Aldington Road, Kemps Creek, be approved subject to the following conditions.

General

1 [A001 - Approved plans table](#)

The development must be implemented substantially in accordance with the following plans and documents, the application form and any supporting information received with the application, **in so far as those plans and documents relate to the subject development, being the three new lots**, and by the following conditions.

Drawing Number	Revision	Drawing Title - Project Number 19-000555.P	Prepared By	Date
000	3	Cover Sheet	Calibre	05/02/2020
001	3	General Arrangement & Sheet Layout Plan	Calibre	05/02/2020
002	3	General Notes and Legend	Calibre	05/02/2020
101	3	Soil and Water Management Plan 01 of 03	Calibre	05/02/2020
102	3	Soil and Water Management Plan 02 of 03	Calibre	05/02/2020
103	3	Soil and Water Management Plan 03 of 03	Calibre	05/02/2020
301	3	Engineering Plan 01 of 05	Calibre	05/02/2020
302	3	Engineering Plan 02 of 05	Calibre	05/02/2020
303	3	Engineering Plan 03 of 05	Calibre	05/02/2020
304	3	Engineering Plan 04 of 05	Calibre	05/02/2020
305	3	Engineering Plan 05 of 05	Calibre	05/02/2020
401	3	Road No. 01 Longitudinal & Typical Cross Sections	Calibre	05/02/2020
402	3	Road No. 01 Longitudinal Sections	Calibre	05/02/2020
403	3	Roads No. 01 & No. 02 Longitudinal & Typical Cross Sections	Calibre	05/02/2020
801	3	Catchment Plan	Calibre	05/02/2020

Drawing Number	Revision	Drawing Title - Project Number 19-000555-ST-2	Prepared By	Date
1 OF 2	7	Proposed Rural/Residential Subdivision Overall Plan	Calibre	16/06/2020
2 OF 2	7	Proposed Rural/Residential Subdivision - Stage 2 Subdivision Layout	Calibre	16/06/2020

- Bushfire Hazard Assessment prepared by Blackash Bushfire Consulting, Version 1.1, dated 1 October, 2019;
- Landfill Gas Risk Assessment, Kemps Creek, NSW prepared by Environmental Risk Sciences Pty Ltd, dated 09 February 2021;
- Report on Detailed Site Investigation with Limited Intrusive Investigation, prepared by Douglas Partners, Project No. 92240.01, Revision 1, dated 18 October 2019;
- Letter titled " Stormwater Management Plan - Lot 12 DP 392643, Stage 2 Aldington Rd, Kemps Creek, NSW", prepared by Calibre Professional Services Pty Ltd, dated 17 November 2020;
- General Terms of Approval and Bush Fire Safety Authority from NSW Rural Fire Service dated 3 November 2020;
- Statement of Environmental Effects, prepared by Calibre Professional Services Pty Ltd, dated 4 September 2020;
- DA Noise Assessment prepared by Wilkinson Murray, Project No. 10196-X, dated 10 October, 2019;
- On-Site Effluent Disposal Assessment prepared by Douglas Partners, Project No. 92240.01, Document No. R.003.Rev0, Revision 0, dated 14 October, 2019;
- Amended Ecological & Riparian Issues & Assessment Report prepared by F Dominic Fanning, dated January, 2020;
- Salinity Investigation and Management Plan prepared by Douglas Partners, Project No. 92240.01, Document No. R.002.Rev1, Revision 1, dated 18 October, 2019; and
- Waste Management Plan accompanying the application, undated.

2 **A Special (BLANK)**

This Development Consent is not to be construed as derogating from the Development Consent and Conditions of Consent within the Concept Approval for Major Project 10_0129, as modified. The onus is on the applicant and/or landowner to ensure that this Development Consent DA20/0566 is not contrary to the Concept Approval, as relevant.

3 **A Special (BLANK)**

The onus is on the landowner and the Principal Certifier to ensure that the relevant obligations under any relevant Planning Agreement between the land owner and the Minister for Planning are met. This development consent does not permit contravention of any Planning Agreement.

The Principal Certifying Authority is to ensure, that if a Planning Agreement specifies that particular requirements of an Agreement are to be completed prior to the issue of a Subdivision Certificate, that those requirements have been complied with or are met, **prior to the issue of a Subdivision Certificate**.

4 **A Special (BLANK)**

Prior to any works commencing on the site, a pre-works survey is to be conducted by a fauna ecologist and subject to their recommendations, a fauna exclusion zone is to be established. All affected fauna are to be managed according to the recommendations of the fauna ecologist, to ensure the faunas' persistence on or nearby the site.

5 **A Special (BLANK)**

No fill, machinery, or materials are to be placed or stored within the drip line of the scattered tree/s that is/are to be retained. Tree protection measures are to be implemented according to Australian Standard AS 4970-2009 "Protection of trees on development sites".

6 **A Special (BLANK)**

Prior to the issue of a Subdivision Certificate, documentary evidence is to be provided to Penrith City Council that demonstrates that the stormwater, road, roadworks and fire trail associated with Development Consents DA445.1/2019, issued by Fairfield City Council, and DA19/0785, issued by Penrith City Council, have been completed to the satisfaction of the relevant local Council.

The purpose of this condition is to ensure that correct and suitable public access, fire access, and stormwater drainage is provided to the lots approved under this Development Consent, DA20/0566.

7 **A Special (BLANK)**

No native trees or other vegetation (including shrubs and other understory vegetation) are to be removed, ringbarked, cut, topped, lopped, slashed or willfully destroyed without the prior consent of Penrith City Council and in accordance with Council's Tree Preservation Order and Policy.

8 **A Special (BLANK)**

The applicant / landowner is to ensure that all conditions and requirements from the NSW Rural Fire Service, as stated in their General Terms of Approval and Bush Fire Safety Authority letter dated 3 November 2020 are complied with.

9 **A Special Condition (BLANK)**

A revised Water Sensitive Urban Design (WSUD) Strategy for the subdivision, which demonstrates compliance with Council's Water Sensitive Urban (WSUD) Policy 2013, is to be submitted to Penrith City Council for its consideration and approval **prior to the issue of a Subdivision Works Certificate**. If Council is not the certifier issuing the Subdivision Works Certificate, then a copy of the report approved by Council should be submitted to the Certifier.

The WSUD Strategy must be prepared by a suitably qualified engineer in accordance with Council's Water Sensitive Urban Design (WSUD) Policy 2013 and associated WSUD Technical Guidelines and shall be supported by MUSIC modelling and include details of the proposed stormwater treatment measures for lots created by the subdivision.

Heritage/Archaeological relics

10 C003 - Uncovering relics

If any archaeological relics are uncovered during the course of the work no further work shall be undertaken until further directed by Penrith City Council or the NSW Heritage Office.

The applicant is advised that depending on the possible significance of the relics, an archaeological assessment and an excavation permit under the Heritage Act, 1977 may be required before any further work can be recommenced in that area of the site.

Environmental Matters

11 D001 - Implement approved sediment& erosion control measures

Erosion and sediment control measures shall be installed **prior to the commencement of works on site** including approved clearing of site vegetation. The erosion and sediment control measures are to be maintained in accordance with the approved erosion and sediment control plan(s) for the development and the Department of Housing's "Managing Urban Stormwater: Soils and Construction" 2004.

The approved sediment and erosion control measures are to be installed **prior to and maintained throughout the construction phase of the development until the land, that was subject to the works, has been stabilised and grass cover established**. These measures shall ensure that mud and soil from vehicular movements to and from the site does not occur during the construction of the development.

12 D004 - Dust

Dust suppression techniques are to be employed during works to reduce any potential nuisances to surrounding properties.

13 D005 - Mud/Soil

Mud and soil from vehicular movements to and from the site must not be deposited on the road.

14 D005 – No filling without prior approval (may need to add D006)

No fill material is to be imported to the site without the prior approval of Penrith City Council in accordance with Sydney Regional Environmental Plan No.20 (Hawkesbury- Nepean River) (No.2-1997). No recycling of material for use as fill material shall be carried out on the site without the prior approval of Council.

15 D006 - No filling without prior approval (Use always, except for bulk earthworks/ major fill operations)

No fill material shall be imported to the site until such time as a Validation Certificate (with a copy of any report forming the basis for the validation) for the fill material has been submitted to, considered and approved by Council. The Validation Certificate shall:

- state the legal property description of the fill material source site,
- be prepared by an appropriately qualified person with consideration of all relevant guidelines (e.g. EPA, ANZECC, NH&MRC), standards, planning instruments and legislation,
- provide details of the volume of fill material to be used in the filling operations,
- provide a classification of the fill material to be imported to the site in accordance with the Environment Protection Authority's "Environmental Guidelines: Assessment, Classification & Management of Non-Liquid Wastes" 1997, and
- (based on the fill classification) determine whether the fill material is suitable for its intended purpose and land use and whether the fill material will or will not pose an unacceptable risk to human health or the environment.

Note: An appropriately qualified person is "a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, eco-toxicology, sampling and analytical procedures, risk evaluation and remediation technologies. In addition, the person will be required to have appropriate professional indemnity and public risk insurance."

If the Principal Certifying Authority or Penrith City Council is not satisfied that suitable fill materials have been used on the site, further site investigations or remediation works may be requested. In these circumstances the works shall be carried out prior to any further approved works.

16 **D009 - Covering of waste storage area**

All waste materials stored on-site are to be contained within a designated area such as a waste bay or bin to ensure that no waste materials are allowed to enter the stormwater system or neighbouring properties. The designated waste storage areas shall provide at least two waste bays / bins so as to allow for the separation of wastes, and are to be fully enclosed when the site is unattended.

17 **D010 – Appropriate disposal of excavated or other waste**

All excavated material and other wastes generated as a result of the development are to be re-used, recycled or disposed of in accordance with the approved waste management plan.

Waste materials not specified in the approved waste management plan are to be disposed of at a lawful waste management facility. Where the disposal location or waste materials have not been identified in the waste management plan, details shall be provided to the Certifying Authority as part of the waste management documentation accompanying the Construction Certificate application.

All receipts and supporting documentation must be retained in order to verify lawful disposal of materials and are to be made available to Penrith City Council on request.

18 **D026 - Liquid wastes**

Only clean and unpolluted water is to be discharged into Penrith City Council's stormwater drainage system. Liquid wastes suitable for discharge to the mains sewer are to be discharged in accordance with Sydney Water requirements.

If mains sewer is not available or if Sydney Water will not allow disposal to the sewer then a licensed waste contractor is to remove the liquid waste from the premises to an appropriate waste facility. The waste contractor and waste facility are to hold the relevant licenses issued by the NSW Environment Protection Authority.

19 **D Special (BLANK)**

Prior to any works commencing on the new road extension, the proponent is to submit to Penrith City Council, a detailed street tree plan that provides for street trees species suitable to Western Sydney. This plan shall be accompanied by clarification from the bushfire consultant confirming that the tree species and spacing are appropriate for bushfire prone land. The street trees shall be planted **prior to the issue of a Subdivision Certificate**.

Utility Services

20 **G002 - Section 73 (not for**

A Section 73 Compliance Certificate under the Sydney Water Act 1994 shall be obtained from Sydney Water. The application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's website at www.sydneywater.com.au then the "e-developer" icon, or telephone 13 20 92.

The Section 73 Compliance Certificate must be submitted to the Principal Certifying Authority prior to the issue of a Subdivision Certificate.

21 **G004 - Integral Energy**

Prior to the issue of a Subdivision Certificate, a written clearance is to be obtained from Endeavour Energy stating that electrical services have been made available to the development or that arrangements have been entered into for the provision of services to the development.

22 G006 -

Prior to the issue of a Subdivision Certificate, the Principal Certifying Authority shall be satisfied that telecommunications infrastructure may be installed to service the premises which complies with the following:

- The requirements of the Telecommunications Act 1997;
- For a fibre ready facility, the NBN Co's standard specifications current at the time of installation; and
- For a line that is to connect a lot to telecommunications infrastructure external to the premises, the line shall be located underground.

Unless otherwise stipulated by telecommunications legislation at the time of construction, the development must be provided with all necessary pits and pipes, and conduits to accommodate the future connection of optic fibre technology telecommunications.

Written certification from all relevant service providers that the telecommunications infrastructure is installed in accordance with the requirements above and the applicable legislation at the time of construction, must be submitted to the Principal Certifying Authority and a copy submitted to Penrith City Council with the application for a Subdivision Certificate.

Construction

23 H001 - Stamped plans and erection of site notice

Stamped plans, specifications, a copy of the development consent, the Construction Certificate and any other Certificates to be relied upon shall be available on site at all times during construction. The following details are to be displayed in a maximum of 2 signs to be erected on the site:

- the name of the Principal Certifying Authority, their address and telephone number,
- the name of the person in charge of the work site and telephone number at which that person may be contacted during work hours,
- that unauthorised entry to the work site is prohibited,
- the designated waste storage area must be covered when the site is unattended, and
- all sediment and erosion control measures shall be fully maintained until completion of the construction phase.

Signage but no more than 2 signs stating the above details is to be erected:

- at the commencement of, and for the full length of the, construction works onsite, and
- in a prominent position on the work site and in a manner that can be easily read by pedestrian traffic.

All construction signage is to be removed when the works are completed.

24 H041 - Hours of work (other devt)

Subdivision works that are carried out in accordance with an approved consent that involve the use of heavy vehicles, heavy machinery and other equipment likely to cause offence to adjoining properties shall be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:

- Mondays to Fridays, 7am to 6pm;
- Saturdays, 7am to 1pm (if inaudible on neighbouring residential premises), otherwise 8am to 1pm; and
- No work is permitted on Sundays and Public Holidays.

Other construction works carried out inside a building/tenancy and do not involve the use of equipment that emits noise are not restricted to the construction hours stated above. The provisions of the Protection of the Environment Operations Act, 1997 in regulating offensive noise also apply to all construction works.

Engineering

25 K101 - Works at No Cost to Council

All roadworks, stormwater drainage works, signage, line marking, associated civil works and dedications required to effect the consented development shall be undertaken by the applicant at no cost to Penrith City Council.

26 **K201 - Infrastructure Bond**

An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Penrith City Council's Public Infrastructure Assets. The bond is to be lodged with Penrith City Council prior to commencement of any works on site or prior to the issue of any Construction Certificate or Subdivision Works Certificate, whichever occurs first. The bond and applicable fees are in accordance with Council's adopted Fees and Charges.

An application form together with an information sheet and conditions are available on Council's website. Contact Penrith City Council's Asset Management Department on 4732 7777 or visit Penrith City Council's website for more information.

27 **K202 - S138 Roads Act - Minor Works in the Public Road**

Prior to any works commencing, or the issue of any Subdivision Certificate, or Subdivision Works Certificate, whichever occurs first, a Section 138 Roads Act application, including payment of application and inspection fees together with any applicable bonds, shall be lodged with and approved by Penrith City Council (being the Roads Authority for any works required in a public road). These works may include but are not limited to the following:

- a) Road openings for lead in public utility services and stormwater (including stormwater connection to Penrith City Council roads and other Penrith City Council owned drainage);
- b) Road occupancy or road closures;
- c) The placement of hoardings, structures, containers, waster skips, signs etc. in the road reserve;
- d) Temporary construction access.

All works shall be carried out in accordance with the Roads Act approval, the development consent, including the stamped approved plans, and Penrith City Council's specifications, guidelines and best engineering practice. Contact Penrith City Council's Asset Management Department on 4732 7777 or visit Penrith City Council's website for more information.

28 K206 - Subdivision Works Certificate for Subdivision Works

A Subdivision Works Certificate (previously a Construction Certificate) is to be approved by the Certifier for the provision of any subdivision works (road, drainage, earthworks).

Prior to the issue of any Subdivision Works Certificate, the Certifier shall ensure that engineering plans are consistent with the stamped approved plan/s prepared by Calibre, reference number 19-000555.P, revision 3, dated 05 February 2020, and that all subdivision works have been designed in accordance with the development consent, Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments, Engineering Construction Specification for Civil Works, Austroads Guidelines and best engineering practice.

Prior to the issue of a Subdivision Works Certificate, the Certifying Authority shall ensure the engineering plans include the following:

- All roads are to be designed with a central crown and two way crossfall at a nominal 3%.
- No retaining walls are permitted within the public road reserve areas.
- Maximum batter slopes within public road reserve areas shall be 1 in 5 (vertical to horizontal).
- Appropriate treatment is provided to stormwater outlets to minimise scour and erosion.
- Any table drain that exceeds 6% in longitudinal grade shall be constructed with kerb and gutter.
- Any batters shall not have any adverse impact upon adjoining properties through the concentration or diversion of existing stormwater sheet flows.

The subdivision works may include but are not limited to the following:

- Public and private roads
- Stormwater management (quantity and quality)
- Interallotment drainage
- Private access driveways
- Sediment and erosion control measures
- Flood control measures
- Overland flow paths
- Traffic facilities
- Earthworks Bridges, culverts, retaining walls and other structures
- Landscaping and embellishment works

The Subdivision Works Certificate must be supported by engineering plans, calculations, specifications and any certification relied upon.

Note: Council's Development Engineering Department can provide this service. Contact Penrith City Council's Development Engineering Department on 4732 7777 to obtain a formal fee proposal prior to lodgement and visit Penrith City Council's website for more information.

29 K207 - Road Design Criteria Table

Prior to the issue of any Subdivision Works Certificate, or commencement of work, the Certifier shall ensure that the proposed roads have been designed in accordance with Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments, Engineering Construction Specification for Civil Works and the following criteria:

Road No.	Road Reserve Width	Full Depth Pavement Width	Sealed Shoulder Width	Carriageway Width	Verge Width	ESA
01	20m and Variable	9.0m	2 x 1.0m	2 x 4.0m	6.0m (min)	5 x 10 ⁴

A copy of the pavement design prepared and certified by a suitably qualified geotechnical engineer must accompany the application for the Subdivision Works Certificate.

30 [K224 - Construction Traffic Management Plan](#)

Prior to the commencement of any works on-site (including demolition works) or prior to the issue of any Subdivision Works Certificate, whichever occurs first, a Construction Traffic Management Plan (CTMP) shall be submitted to Penrith City Council's Asset Management Department for endorsement. The CTMP shall be prepared by a suitably qualified consultant with appropriate training and certification from Transport for NSW. The CTMP shall include details of any required road closures, work zones, loading zones and the like. Approval of the CTMP may require approval of the Local Traffic Committee. Please contact Council's Asset Management Department on 4732 7777 and refer to Council's website for a copy of the Temporary Road Reserve Occupancy Application Form.

31 [K302 - Traffic Control Plan](#)

Prior to commencement of any works associated with the development, a Traffic Control Plan, including details for pedestrian management, shall be prepared in accordance with AS1742.3 Traffic Control Devices for Works on Roads and the Transport for NSW (TfNSW) publication Traffic Control at Worksites, and certified by an appropriately accredited TfNSW Traffic Controller.

Traffic control measures shall be implemented during the construction phase of the development in accordance with the certified plan. A copy of the plan shall be available on site at all times.

Note:

- A copy of the Traffic Control Plan shall accompany the Notice of Commencement to Penrith City Council.
- Traffic control measures may require road occupancy / road closure approvals issued under Section 138 of the Roads Act by Penrith City Council prior to the issue of any Construction Certificate or Subdivision Works Certificate.

32 [K303 - Matters to be Addressed Prior to Commencement of Subdivision Works](#)

Work on the subdivision shall not commence until:

- a Subdivision Works Certificate has been issued;
- a Certifier has been appointed for the project, and;
- any other matters prescribed in the development consent for the subdivision and the Environmental Planning and Assessment Act and Regulation have been complied with.

A Notice of Commencement of works is to be submitted to Penrith City Council five (5) days prior to commencement of engineering works or clearing associated with the subdivision.

33 [K402 - Street Lighting](#)

Street lighting is to be provided for all new and existing roads within the proposed subdivision to Penrith City Council's standards.

34 [K403 - Major Filling / Earthworks](#)

All earthworks shall be undertaken in accordance with AS3798 and Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments and Engineering Construction Specification for Civil Works.

The level of testing shall be determined by the Geotechnical Testing Authority / Superintendent in consultation with the Principal Certifier.

35 [K404 - Soil Testing - Subdivisions](#)

Soil testing is to be carried out to enable each lot to be classified according to AS2870 Residential Slabs and Footings. The results shall be submitted to Penrith City Council prior to the issue of any Subdivision Certificate.

36 [K405 - Turf to Verge](#)

Upon completion of all works in the road reserve, all verge areas fronting and within the development are to be turfed. The turf shall extend from the back of kerb to the property boundary, with the exception of concrete footpaths, service lids or other infrastructure which is not to be turfed over. Turf laid up to concrete footpaths, service lids or other infrastructure shall finish flush with the edge.

37 **K406 - Underground Services**

All existing (aerial) and proposed services for the development, including those across the frontage of the development are to be located or relocated underground in accordance with the relevant authorities' regulations and standards.

38 **K501 - Penrith City Council Clearance - Roads Act / Local Government Act**

Prior to the issue of a Subdivision Certificate, the Principal Certifier shall ensure that all works associated with a S138 Roads Act approval or S68 Local Government Act approval have been inspected and signed off by Penrith City Council.

39 **K502 - Completion of Subdivision Works**

Prior to the issue of any Subdivision Certificate, the Principal Certifier shall ensure that all subdivision works required by this consent have been satisfactorily completed or that suitable arrangements have been made with Penrith City Council for any outstanding works.

40 **K507 - Easements for Drainage - New Common Drainage Lines**

Prior to the issue of a Subdivision Certificate, the final plan of subdivision shall include easements for drainage over the inlet and outlet of any drainage structure crossing under any public road.

The final plan of subdivision shall also be supported by an 88B Instrument nominating a Restriction as to User over the 1% AEP overland flow paths in the locations shown on the Building Pad Plans prepared by Calibre, reference 19-000555-DA-18, issue 11, dated 06-05-2020. Standard wording for the overland flow path is available from Council's website in the document 'Stormwater Drainage Specification for Building Developments'.

41 **K509 - Signage & Line Marking**

Prior to the issue of a Subdivision Certificate and installation of regulatory/advisory signage and line marking, plans are to be lodged with Penrith City Council and approved by the Local Traffic Committee.

Notes:

- Contact Penrith City Council's Engineering Services Department on 4732 7777 for further information on this process.
- Allow eight (8) weeks for approval by the Local Traffic Committee.
- Applicable fees are indicated in Council's adopted Fees and Charges.

42 **K512 - Street Naming**

Prior to the issue of any Subdivision Certificate, an application for proposed street names must be lodged with and approved by Penrith City Council and the signs erected on-site. The proposed names must be in accordance with Penrith City Council's Street Naming Policy.

Notes:

- Contact Penrith City Council's Engineering Services Department on 4732 7777 for advice regarding the application process and applicable fees.
- Allow eight (8) weeks for notification, advertising and approval.

43 **K513 - Bond for Final AC**

Prior to the issue of any Subdivision Certificate, a bond for the final layer of outstanding asphalt works (AC Bond) is to be lodged with Penrith City Council. The final layer of asphalt on all roads shall not be placed without the written consent of Penrith City Council. The value of the bond shall be determined in accordance with Penrith City Council's adopted Fees and Charges.

44 **K515 - Maintenance Bond**

Prior to the issue of a Subdivision Certificate, a Maintenance Bond is to be lodged with Penrith City Council for all civil subdivision works. The value of the bond shall be determined in accordance with Penrith City Council's adopted Fees and Charges.

45 **K516 - Subdivision Compliance Documentation**

Prior to the issue of any Subdivision Certificate, the following compliance documentation shall be submitted to the Principal Certifier. A copy of the following documentation shall be provided to Penrith City Council where Penrith City Council is not the Principal Certifier:

- a) Works As Executed (WAE) drawings of all civil works. The WAE drawings shall be marked in red on copies of the stamped Subdivision Works Certificate drawings signed, certified and dated by a registered surveyor or the design engineer. The WAE drawings shall be prepared in accordance with Penrith City Council's Engineering Construction Specification for Civil Works.
- b) The WAE drawings shall clearly indicate the 1% Annual Exceedance Probability flood lines (local and mainstream flooding).
- c) The WAE drawings shall be accompanied by plans indicating the depth of cut / fill for the entire development site. The survey information is required to show surface levels and site contours at 0.5m intervals. All levels are to be shown to AHD.
- d) CCTV footage in DVD format to Penrith City Council's requirements and a report in "SEWRAT" format for all drainage as identified as Council's future assets. Any damage that is identified is to be rectified in consultation with Penrith City Council.
- e) A copy of all documentation, reports and manuals required by Section 2.6 of Penrith City Council's WSUD Technical Guidelines for handover of stormwater management facilities to Penrith City Council.
- f) Surveyor's Certificate certifying that all pipes and services are located wholly within the property or within appropriate easements and that no services encroach boundaries, private or public lands.
- g) Documentation for all road pavement materials used demonstrating compliance with Penrith City Council's Engineering Construction Specification for Civil Works.
- h) A Geotechnical Report certifying that all earthworks and road formation have been completed in accordance with AS3798 and Penrith City Council's Design Guidelines and Construction specifications. The report shall include:
 - Compaction reports for road pavement construction.
 - Compaction reports for bulk earthworks and lot regarding.
 - Soil classification for all residential lots.
 - Statement of Compliance.
- i) Structural Engineer's construction certification of all structures.
- j) A slope junction plan for inter-allotment drainage lines indicating distances to boundaries and depths.
- k) Soil testing for each lot to be classified according to AS2870 Residential Slabs and Footings.

46 **K517 - Registration of Easements**

Prior to the issue of any Subdivision Certificate, the following easements shall be created on the plan of subdivision:

- a) Easements for drainage; and
- b) Right of carriageway for Fire Trail access.

47 [K - Waterways - Commissioning and Handover](#)

Prior to the handover of the assets, Council requires all of the following conditions to be met:

- The WSUD assets / measures are constructed and operate in accordance with the approved design specifications / parameters and any other specific design agreements previously entered into with Council
- The performance of the WSUD measure(s) has been validated, which must include the provision of a Performance Validation Report supporting the performance of the WSUD measure
- Where applicable, the build up of sediment has resulted in no more than a 10% reduction of operational volume
- Asset inspections for defects has been completed and, if any defects are found, rectified to the satisfaction of Council
- The WSUD infrastructure is to the satisfaction of Council, structurally and geotechnically sound (this will require the submission of documents demonstrating that such infrastructure has been certified by suitably qualified persons)
- Design drawings have been supplied in a format acceptable to Council
- Works as Executed (WAE) drawings have been supplied for all infrastructure in a format and level of accuracy acceptable to Council
- Other relevant digital files have been provided (e.g. design drawings, surveys, bathymetry, models etc)
- Landscape designs have been supplied, particularly those detailing the distribution of functional vegetation, i.e. vegetation that plays a role in water quality improvement (clearance certificates from the landscape architect will need to be supplied)
- The condition of the infrastructure associated with the land complies with the approved design specification
- Filter media infiltration rates are within 10% of the rates of the design parameters for the filtration system concerned
- Comprehensive operation and maintenance manuals (including indicative costs) have been provided. The plan should include details on the following
 - i. Site description (area, imperviousness, land use, annual rainfall, topography etc)
 - ii. Site access description
 - iii. Likely pollutant types, sources and estimated loads
 - iv. Locations, types and descriptions of measures proposed
 - v. Operation and maintenance responsibility
 - vi. Inspection methods (including inspection checklists)
 - vii. Maintenance methods (frequency, equipment and personnel requirements);
 - viii. Landscape and weed control requirements
 - ix. Operation and maintenance costs;
 - x. Waste management and disposal options; and
 - xi. Reporting.

48 [K Special Condition BLANK](#)

Prior to the issue of a Subdivision Works Certificate, the Certifying Authority shall ensure the design of the perimeter property access road for fire fighting purposes is in accordance with the requirements of the NSW Rural Fire Service document 'Planning for Bushfire Protection' November 2019. Full details, including pavement design, shall be shown on engineering plans submitted with the application for a Subdivision Works Certificate.

49 [K Special Condition BLANK](#)

Prior to the issue of a Subdivision Certificate, the final plan of subdivision shall include dedication of an easement for support over any road batter within private lots that are steeper than 1 in 5 (vertical to horizontal). The easement for support shall benefit Penrith City Council.

Subdivision

50 **M008 - Subdivision Certificate requirements**

Prior to the issue of a Subdivision Certificate, the final plan of subdivision must indicate that:

- a) It is intended to dedicate all new roads to the public as road;
- b) All required drainage easements, rights of way, restrictions and covenants are to be included on the linen plan; and
- c) All dedications of roads/drainage are to be undertaken at no cost to Penrith City Council is to be shown on the plan.

51 **M014 - Surveyors certificate**

A Surveyors Certificate is to be lodged with the application for a Subdivision Certificate that certifies that all pipes and services are located wholly within the property or within appropriate easements and that no services encroach boundaries.

Development Contributions

52 **N001a - Section 7.11 contribution (apply separate condition for each Contribution Plan)**

This condition is imposed in accordance with Penrith City Council's Section 7.11 Contributions Plan for Cultural Facilities. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$1,710 is to be paid to Council prior to a Subdivision Certificate** being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 7.11 Contributions plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The S7.11 invoice accompanying this consent should accompany the contribution payment. The Section 7.11 Contributions Plan for Cultural Facilities may be inspected at Council's Civic Centre, 601 High Street, Penrith.

Note: The timing of contributions payable may be otherwise affected in accordance with Planning Circular PS20-003 dated 3 July 2020 and the associated NSW Government Ministerial Direction - Infrastructure Contributions.

53 **N001b - Section 7.11 contribution (apply separate condition for each Contribution Plan)**

This condition is imposed in accordance with Penrith City Council's Section 7.11 Contributions Plan for District Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$19,130 is to be paid to Council prior to a Subdivision Certificate** being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 7.11 Contributions plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The S7.11 invoice accompanying this consent should accompany the contribution payment. The Section 7.11 Contributions Plan for District Open Space may be inspected at Council's Civic Centre, 601 High Street, Penrith.

Note: The timing of contributions payable may be otherwise affected in accordance with Planning Circular PS20-003 dated 3 July 2020 and the associated NSW Government Ministerial Direction - Infrastructure Contributions.

54 **N001c - Section 7.11 contribution (apply separate condition for each Contribution Plan)**

This condition is imposed in accordance with Penrith City Council's Section 7.11 Contributions Plan for Local Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$6,919 is to be paid to Council prior to a Subdivision Certificate** being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 7.11 Contributions plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The S7.11 invoice accompanying this consent should accompany the contribution payment. The Section 7.11 Contributions Plan for Local Open Space may be inspected at Council's Civic Centre, 601 High Street, Penrith.

Note: The timing of contributions payable may be otherwise affected in accordance with Planning Circular PS20-003 dated 3 July 2020 and the associated NSW Government Ministerial Direction - Infrastructure Contributions.

Payment of Fees

55 **P001 - Costs**

All roadworks, dedications and drainage works are to be carried out at the applicant's cost.

56 **P002 - Fees associated with Council land (Applies to all works & add K019)**

Prior to the commencement of any works on site, all fees associated with Penrith City Council-owned land and infrastructure shall be paid to Council. These fees include Road Opening fees and Infrastructure Restoration fees.

Certification

57 **Q008 - Subdivision Certificate**

A Subdivision Certificate is to be obtained prior to the release of the linen plan of subdivision. The Subdivision Certificate will not be issued if any of the conditions in this consent are outstanding.

58 **Q01F - Notice of Commencement & Appointment of PCA2 (use for Fast Light only)**

Prior to the commencement of any works on site, the proponent is to:

(a) employ a Principal Certifying Authority to oversee that the said works carried out on the site are in accordance with the development consent and related Construction Certificate issued for the approved development, and with the relevant provisions of the Environmental Planning and Assessment Act 1979, and accompanying Regulation, and

(b) submit a Notice of Commencement to Penrith City Council.

The Principal Certifying Authority shall submit to Council an "Appointment of Principal Certifying Authority" in accordance with Section 81A of the Environmental Planning and Assessment Act 1979. Information to accompany the Notice of Commencement:

Two (2) days before any earthworks or construction/demolition works are to commence on site (including the clearing of site vegetation), the proponent shall submit a "Notice of Commencement" to Council in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.