

# Fernhill Estate: Eastern Precinct Development

1041-1117 Mulgoa Road, Mulgoa, NSW 2765

## Statement of Environmental Effects

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## Executive Summary

This application seeks the approval for:

1. The subdivision of 50 allotments ranging in size 750-1770 sq m and associated works adjacent to Mulgoa Primary School to the north of Mulgoa Village, within the peripheral lands of Fernhill Estate's land holdings, outside the State Heritage listed curtilage of Fernhill House and Gardens.
2. Consolidation of lots inside State Heritage curtilage of Fernhill Estate, the land around the proposed subdivision.

The application is made under Cl 5.10 (10) to vary the development standard for minimum lot sizes as the proposed lot size are smaller than that permitted under Cl. 4.1 the permitted lot sizes is 20 Ha. The objective of this application under Cl 5.10 (10) is to facilitate the ongoing conservation and maintenance of the core estate and buildings that are State Heritage Listed. This DA is submitted on the basis that this clause applies to the site. A Conservation Management Plan prepared by Paul Davies Pty Ltd, forms part of this application.

The income, or part thereof, generated through the sale of the lots in the proposed subdivision will be placed into a trust account that will be utilised to facilitate the ongoing preservation of the State Heritage listed Fernhill Estate.

The Trust will facilitate the ongoing conservation and maintenance of Fernhill Estate. This Trust will provide certainty that funds will be available to undertake the works identified in the Conservation Management Plan.

A Voluntary Planning Agreement forms part of the application. The VPA is the legal agreement between Council and the Applicant. It will ensure that the funds generated from the sale of lots in the Eastern Precinct are used for the Conservation and management of Fernhill and its curtilage. The level of contribution from the sale of each lot is set out in the VPA

The key public benefits are:

1. Preservation and maintenance of the Fernhill House and Gardens identified in the maintenance schedule of the Conservation Management Plan, prepared by Paul Davies Pty Ltd as the funds obtained from subdivision land within the periphery of the Fernhill lands including the Eastern, Western and Northern Precincts will be placed in a trust
2. Consolidation of additional land within Fernhill Estate to ensure the preservation of the historic curtilage of Fernhill House and Gardens and protect the area from further subdivision in perpetuity.
3. BioBanking agreements are permanently binding and provide an additional layer of protection from development and preserving significant areas of ecologically sensitive land within Fernhill.
4. One annual event, a picnic race is proposed within the State heritage curtilage, providing public access through a temporary event subject to a separate application.

## 1.0 Introduction

### 1.1 Purpose of Application

This application seeks the approval for:

1. The subdivision of 50 allotments ranging in size 750-1770 sq m and associated works adjacent to Mulgoa Primary School to the north of Mulgoa Village, within the peripheral lands of Fernhill Estate's land holdings, outside the State Heritage listed curtilage of Fernhill House and Gardens.
2. Consolidation of lots inside State Heritage curtilage of Fernhill Estate, the land around the proposed subdivision.

The application is made under Cl 5.10 (10) of Penrith LEP, the objective is to facilitate the conservation and management of Heritage Items.

The proposed subdivision:

1. Utilises a portion of the Eastern Precinct, - Lot 100 DP 717549 and Lot 1 DP570484
2. Consolidates peripheral land within the subject area within the State Heritage Listed Curtilage of Fernhill, which consists of Lot 2 DP 541825 and Lot 10 & 11 DP 615085.
3. Consolidates residual land within the Eastern Precinct and open space within the proposed development footprint forming part of Fernhill Estate.

The Eastern Precinct is identified as local heritage within PLEP 2010.

To vary the development standard for minimum lot sizes as the proposed lot size are smaller than that permitted under Cl. 4.1 The permitted lot sizes is 20 Ha. The objective of which is to facilitate the ongoing conservation and maintenance of the core estate and buildings that are State Heritage Listed. This DA is submitted on the basis that this clause applies to the site.

The income, or part thereof, generated from the sale of allotments in the proposed subdivision will be placed in a fund to form the trust to facilitate the conservation and management of Fernhill and its Curtilage.

The Eastern Precinct is identified as local heritage within PLEP 2010.

The conservation of the State listed Heritage Item and the conservation of the surrounding cultural and natural environment will be facilitated by the proposed development because:

1. Income from the sale of residential lots as well as the proposed ongoing commercial activities will provide financial resources to fund the conservation works;
2. The consolidation of lots within the precincts will reduce the risk of fragmentation of the estate including the land on which the house is situated.
3. Consolidation and restrictions on further subdivision of land will protect the core part of the State Heritage Item with a substantial (and enlarged) curtilage, noting that currently individual lots are at risk of being sold separately via mortgagee sale
4. Natural environment surrounding the State Heritage Item will be protected through secure mechanisms in accordance with this agreement.

The proposed subdivision of the Western Precinct is a separate application. The Northern Precinct comprising the lots along Mayfair Road will not be consolidated.

The income, or part thereof, generated from the sale of the proposed lots in Western and the existing lots in the Northern Precinct will be paid into the trust. One annual event, a Picnic Race is proposed within the State Heritage Listed curtilage providing public access through these separate applications.

The Voluntary Planning Agreement that forms part of this application will also coordinate contributions to the trust proposed through these separate applications.

The consultants engaged for this proposal include:

Reference	Description	Prepared By
	Landscape Plan	ae design partnership
	DA Drawings	ae design partnership
	Linen Plan	Land Partners Pty Ltd
	Statement of Environmental Effects	ae design partnership
	Heritage Impact Statement	Paul Davies Pty Ltd
	Conservation Management Plan	Paul Davies Pty Ltd
	Civil Drawings	Mott MacDonald
	Traffic Impact Assessment	Mott MacDonald
	Stormwater Management	Mott MacDonald
	Infrastructure Services	Mott MacDonald
	Survey	Land Partners
	Bushfire Risk Management	GHD
	Ecological Report	GHD
	Detailed Site (Contamination) Investigation	Douglas Partners
	Land Capability Assessment	Douglas Partners
	Assessment of Social Issues	Elton Consulting
	Voluntary Planning Agreement	HWLE



## 1.2 Brief Overview of the Proposal

The proposed development, subject of this Integrated Development Application, is for 50 Torrens Title residential allotments in the Eastern Precinct.

Vehicular and pedestrian access is from Mulgoa Road.

Lots range from 750 to 1,770 square metres with an average street frontage of 20 metres.

The proposed subdivision responds to the existing scenic and rural landscape character, through site planning and proposed road pattern, following the contours of the site and landscape.

A detailed description of the proposal is provided in Part 5 of this Statement of Environmental Effects.

## 1.3 The Site

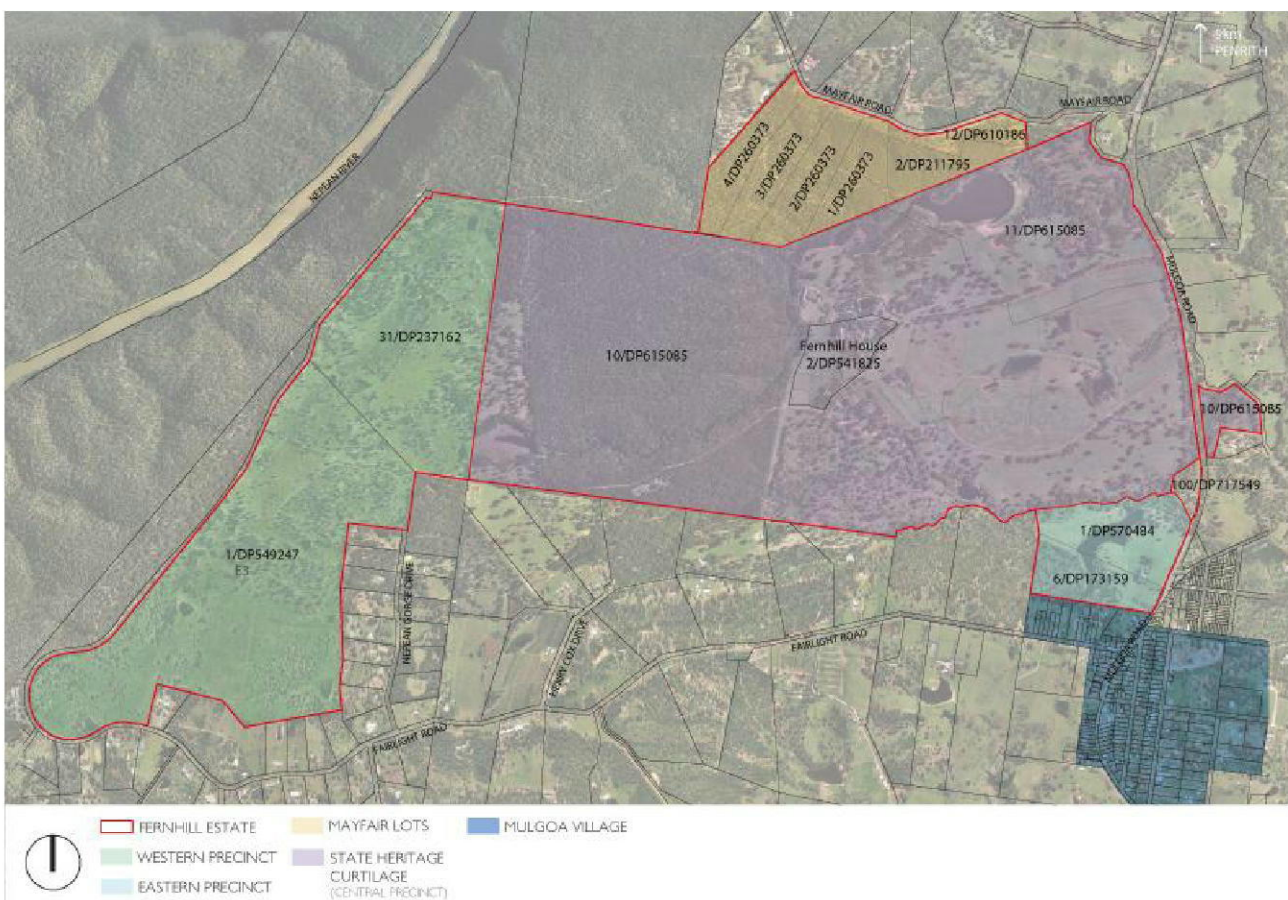


Figure 1: Fernhill Estate, Precincts

Fernhill Estate is characterized by four main precincts. The Central Precinct incorporates the State Heritage Listed curtilage. The North and Eastern precinct are identified within the PLEP 2010 as having heritage significance associated with Fernhill. The Western Precinct has no heritage significance.

Land Title	Precinct	Area
Lot 100 DP 717549	Eastern	1.739
Lot 1 DP 570484	Eastern	15.61
Lot 6 DP 173159	Eastern	10.15
Lot 10 DP 615085	Central	325.2
Lot 11 DP 615085	Central	49.52
Lot 2 DP 541825	Central	10.15
Lot 31 DP237 163	Western	66.9
Lot 1 DP 549247	Western	111.1
Lot 12 DP 610186	Northern	4.492
Lot 2 DP 211795	Northern	7.766
Lot 1 DP 260373	Northern	10.11
Lot 2 DP 260373	Northern	10.11
Lot 3 DP 260373	Northern	10.11
Lot 4 DP 260373	Northern	10.11

## 1.4 Heritage Conservation Incentives

The application is made under Clause 5.10 (10) Conservation Incentives of the Penrith Local Environmental Plan 2010. Lot sizes within the proposed subdivision are less than the minimum lot size for the subject area within the PLEP 2010. Approval of this application under cl 5.10 (10) will facilitate the conservation of Fernhill.

Specifically, the Penrith LEP 2010, Clause 5. 10 (10)

*“allows the consent authority to grant consent to development for any purpose of a building that is a Heritage Item or of the land on which such a building is erected, or for any purpose on an Aboriginal place of heritage significance, even though development for that purpose would otherwise not be allowed by this Plan, if the consent authority is satisfied that:*

- a) The conservation of the Heritage Item or Aboriginal place of heritage significance is facilitated by the granting of consent, and*
- b) The proposed development is in accordance with a heritage management document that has been approved by the consent authority, and*
- c) The consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and*
- d) The proposed development would not adversely affect the heritage significance of the Heritage Item, including its setting, or the heritage significance of the Aboriginal place of heritage significance, and*
- e) The proposed development would not have any significant adverse effect on the amenity of the surrounding area.”*

Requirements of the PLEP 2010 provisions include a Heritage Conservation Management Plan and Heritage Impact Statement.

A Conservation Management Plan has been prepared for the conservation of the Estate. The Plan provides an analysis of the Heritage Estate and policies for the appropriate future uses of the site. The Conservation Management Plan has been issued to the NSW Office of Heritage for their review and endorsement.

An overview of the Conservation Incentive clause 5.10 (10) of the PLEP 2010 is included in the Conservation Management Plan (CMP).

A Heritage Impact Statement (HIS) prepared by Paul Davies Heritage Architects, concludes that the future of Fernhill as an historic estate is threatened and this comprehensive Development Application is a definitive step in securing the Estate and undertaking conservation work.



## 2.0 Environmental Planning Instruments

This section outlines the relevant state and local planning controls applicable to the proposed development in parts of the Fernhill Estate listed as state and locally significant heritage in the Penrith Local Government Area (LGA). This Integrated Development Application is lodged under Part 4 (Division 2) of the Environmental Planning and Assessment Act (1979).

### 2.1 Commonwealth Legislation

#### Environment Protection and Biodiversity Conservation Act 1999

This Act is triggered by development or action that will have a significant impact on matters of National environmental significance.

No threatened flora under the EPBC Act occurs on the subject site (GHD EP Ecology Assessment 2014, p33).

No threatened fauna under the EPBC Act occurs on the subject site. (GHD EP Ecology Assessment 2014, p33).

The site is 5km east World Heritage Listed Blue Mountains National Park area there is no risk of indirect or direct impacts on the Greater Blue Mountains area (GHD EP Ecology Assessment 2014, p34).

### 2.2 State Legislative Acts

#### National Parks and Wildlife Act, 1974

The National Parks and Wildlife Act also includes provisions that apply to Aboriginal objects and places.

If Aboriginal objects and places are found, the National Parks and Wildlife Service must be informed under Section 91 of the Act, and permits may apply under Section 90. A license may also be required under the Act to damage or destroy threatened fauna species.

Penalties apply for the destruction of Aboriginal objects and places, and the harm of any protected species.

Austral Archeology Pty Ltd, have conducted investigations in accordance with this act for the development site, which indicates the development site is appropriate for residential subdivision.

#### Noxious Weeds Act, 1993

This Act provides for the declaration of noxious weeds in local government areas.

Landowners and occupiers must control noxious weeds according to the control category specified in the Act (GHD EP Ecology Assessment 2014).

*"There are six noxious weed species present in the study area, all of which would require management during construction of the proposal and control once the residential subdivision has been established (GHD EP Ecology Assessment 2014, p5).*

#### Threatened Species Conservation Act, 1995

The TSC Act provides legal status for biota of conservation significance in NSW. The Act aims to 'conserve biological diversity and promote ecologically sustainable proposal'. If a significant impact on threatened biota is likely, a Species Impact Statement (SIS) must be completed and a licence obtained pursuant to Part 6 of the

TSC Act. No significant impacts on threatened biota are anticipated from the proposal, and an SIS is not required (GHD EP Ecology Assessment 2014, p5).

#### Rural Fires Act 1997

This act has been prepared for the prevention, mitigation and suppression of bushfires and other fires in areas across the State that are constituted as rural fire districts.

GHD has prepared a report in accordance with 100B of the Act, which assess subdivision in bushfire prone areas. The Bushfire Assessment prepared by GHD forms part of this application.

#### Office of Water Management Act 2000

This Act has been prepared to promote the principles of ecological sustainable development, protect restore and enhance water sources and to ensure the best practice of water management is implemented in the State.

The water management of the portion of the Eastern Precinct proposed for subdivision is considered within Part 6 of this SEE and Mott MacDonald Stormwater Report, which forms part of this application.

### 2.3 Local Planning Legislation and Guidelines

Key planning controls are contained in the Penrith Local Environment Plan 2010 (PLEP 2010) and Penrith Development Control Plan 2010 (PDCP 2010).

This Statement of Environmental Effects sets out justification for the development proposed under PLEP 2010's conservation incentives and other relevant controls.

The following controls within the Penrith LEP 2010 have been addressed in this Statement of Environmental Effects:

- Aims of Penrith LEP 2010
- Objectives and Controls of Environmental Management, E3 Zone
- Clause 5.10 Heritage Conservation
- Clause 6.4 Development on Natural Resource Sensitive Land
- Clause 6.5 Scenic and Landscape Values
- Clause 6.6 Servicing
- Clause 6.9 Mulgoa Valley
- Clause 6.10 Villages of Mulgoa and Wallacia

The following controls within the Penrith DCP 2010 have been addressed in Appendix One of this Statement of Environmental Effects:

- C1 Site Planning and Design Principles
- C2 Vegetation Management
- C5 Waste Management
- C7 Heritage Objectives
- D1 Rural Land Uses
- E2 Mulgoa Valley Objectives

A Voluntary Planning Agreement is proposed under Subdivision 2 of Division 6 of Part 4 (93F) of the Environmental Planning and Assessment Act 1979 for the coordinated delivery of heritage outcomes.

The requirements of Clause 79C of the EP&A Act are addressed within Part 6 of this SEE.

It considers the following:

- Any environmental planning instrument
- Any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority
- Any Development Control Plan
- Any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and
- The regulations (to the extent that they prescribe matters for the purposes of this paragraph)
- The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality
- The suitability of the site for the development and
- *Any submissions made in accordance with this Act or the regulations*
- The public interest are considered within (this report)

## 2.4 State Environmental Planning Policies

Relevant State Planning Controls include:

State Environmental Planning Policy (SEPP) Infrastructure (2007) because the main access road, Mulgoa Road, is classified as a State Road.

The proposed development does not activate this SEPP as Mulgoa Road does not have the volume of traffic even with the proposed application., as described on Map 13 of the RTA Traffic Volume Maps for Road Noise Assessment (November 2008).

A Traffic Report has been prepared for the Eastern Precinct by Mott MacDonald to address traffic considerations as part of this Integrated Development Application.

State Regional Environmental Plan 20, Sydney Regional Environmental Plan, Hawkesbury Nepean River is a deemed State Environmental Planning Policy.

The subject site is located within the catchment of the Nepean River, as identified in the Schedule to this instrument.

The proposal does not conflict with the policy due to its proximity to the river and the appropriate water quality strategies proposed.

State Environmental Planning Policy (SEPP) 55 Remediation is not applicable. A contamination report has been prepared by Douglas Partners for the Eastern Precinct, as required. The Detailed Site (Contamination) Investigation (2014) has indicated that the site is appropriate for low density residential development.



## 3.0 Context

### 3.1 Fernhill Estate

Fernhill Estate, Mulgoa is located within the Penrith Local Government Area.

It is approximately 9 kilometres south of Penrith and 61 kilometres west of the Sydney CBD.

Fernhill Estate is bounded to the east by Mulgoa Road and St Thomas Church. To the west it is bounded by Fairlight Road, dense vegetation adjacent to the Nepean River and the Blue Mountains National Park. To the north it is bounded by Mayfair Road. To the south it is bounded by Fairlight Road, rural residential land (6,000sqm to 20ha allotments) and Mulgoa Public School (refer to Figure 2).

As seen in Figure 2, Mulgoa Village is located south of the Eastern Precinct. Educational and medical services, places of public worship and public open space are found in the vicinity of the Village. These include the aforementioned Mulgoa Public School, Mulgoa Pre-School, Mulgoa Medical Centre, St Thomas Anglican Church and Mulgoa, Gow and The Straight Road Park.

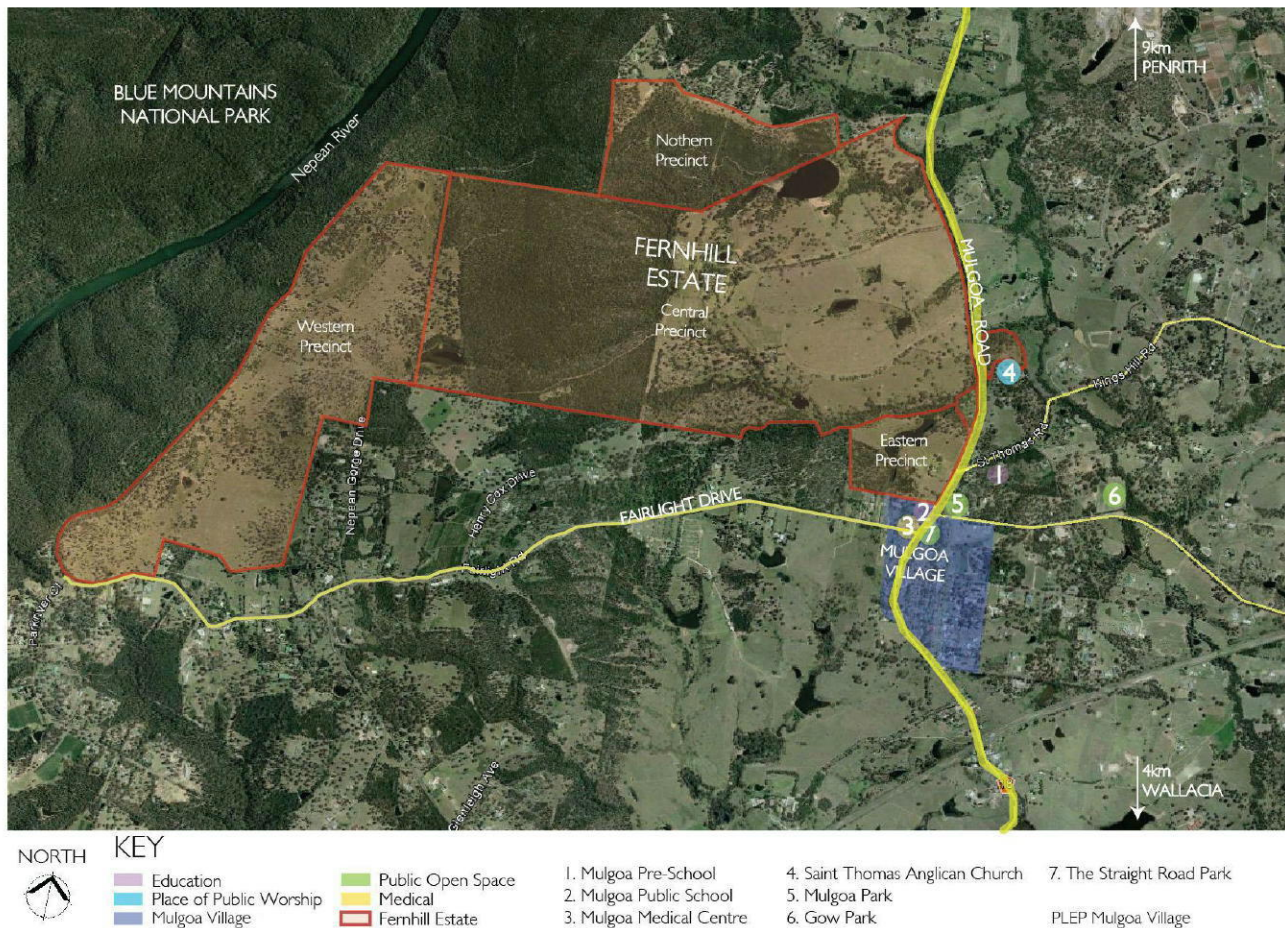


Figure 2 Context Map

Fernhill is approximately 643ha and is situated on undulating hills with two natural waterways that flow through the site to Mulgoa Creek in the east. There are large areas of cleared land, remnant vegetation and contiguous areas of vegetation.



The Estate contains several historic, as well as more recent dwellings and farm buildings. In addition, a range of historic and more recent landscape features (including several ponds, dams, racetrack with stables, and stone and timber fencing). The estate comprises 14 contiguous lots.

For the purposes of this application the Estate is divided into four precincts, as illustrated in Figure 2;

1. The 385 hectare Central Precinct – State Heritage Area including the historic Fernhill House, outbuildings and landscape.
2. The 27.5 hectare Eastern Precinct – north of Mulgoa Village that has local heritage significance associated with the Curtilage of Fernhill.
3. The 53 hectare Northern Precinct – in the vicinity of Mayfair Road which has local heritage significance associated with the Curtilage of Fernhill.
4. The 178 hectare Western Precinct – adjacent to Fairlight Road and rural residential and environmental areas.

### 3.2 Historic Context and Conservation

Fernhill Estate comprises an extensive area of modified and natural landscape, which provided a picturesque setting for a house completed c.1842.

Fernhill has an important historical significance at a State Level. Fernhill is possibly the only surviving early colonial parklike estate in the Sydney region, being designed with the principles of an English Landscape Garden.

Within the village there are a spread of historic buildings. The main driver of the local economy was pastoral activities and expansion of the village occurred post war (Austral Archaeology, Archaeological Report 2014) in association with the development of Warragamba Dam. Historic Buildings in context of Fernhill and the Village of Mulgoa are St Thomas Church and Cemetery, Mulgoa Primary School, The former Post Office, Slab Hut and Fernhill Estate. The former post office serviced local residents from 1877 to 1893 and then was utilised as a residence. The structure was burnt down in 2001 as result of fire and there is no heritage significance associated with the site.

The stables building was constructed in 1839 as a single storey building, which was the first building constructed on the estate. Fernhill house was constructed of sandstone quarried on the site, which was one of the last buildings completed within the noble colonial period.

There are a number conservation and management issues confronting Fernhill, the main ones being:

1. Cost of maintaining the property and ongoing works required to preserve the heritage buildings.
2. Difficulty in operating the property and producing an income that sustains the Estate and makes a profit.
3. Pressure to break up the estate or enable uses that are not appropriate within the core estate.
4. Building and core land associated with the State Heritage Listing could face disrepair.

There are several strategies to preserve Fernhill:

1. Ongoing use of the property for equestrian activities and utilising that income to conserve the estate with the reliance on external grants.
2. Break-up of the estate through the sale of separate lots on the land.
3. Development on the periphery of the estate, which does not impact on the State Heritage Curtilage of Fernhill.

The preferred option is to subdivide parts of the Eastern and Western Precinct in order to generate income to facilitate the preservation and management of the core estate and buildings of Fernhill.

*"There is extensive precedent for the break-up of heritage estates that cannot be maintained and for which no viable use can be found" ... The idealistic notion that Fernhill can remain a folly without any development or additional uses is a flawed idea. (Paul Davies Pty Ltd. EP Heritage Impact Statement 2014, p33).*

*"The Eastern (and Western) subdivisions are considered crucial to provide funding for the future maintenance and conservation of the historical Fernhill estate. In addition, the consolidation of the remaining Fernhill estate land into one allotment will ensure the continuation of the Fernhill estate as a large rural holding, protecting the Fernhill estate from unsympathetic future subdivision, such as that which has occurred at other rural colonial estates in Sydney including Varroville, Campbelltown (listed on the SHR and the LEP, where the house and garden are now irrevocably separated from the original wider estate land setting, the original drive and the 19<sup>th</sup> century outbuildings) and the Mount Gilead farm at Appin Road, Gilead (an 1820s colonial farm of 180 hectares now threatened with residential subdivision)" (Paul Davies Pty Ltd. EP Heritage Impact Statement, 2014, p48).*

The Conservation Management Plan identifies the part of the extended estate, appropriate for alternate uses such as residential development. The areas identified are located in the Eastern, Western and Northern Precinct, which is not part of the State Heritage listed Curtilage or original setting of Fernhill.

The areas identified are suitable for residential subdivision as there will be no impact on the State Heritage Listed Curtilage as identified in the Figure 3.

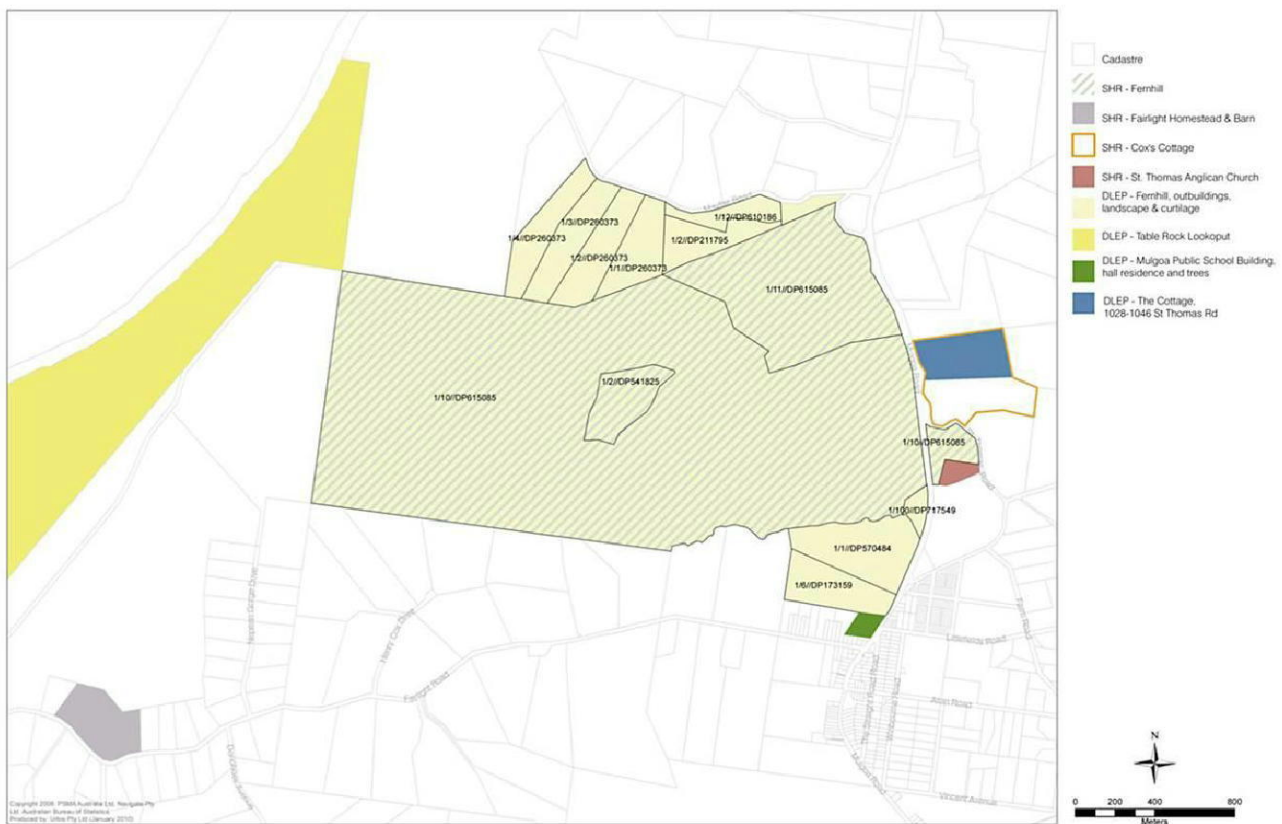


Figure 3 Heritage Listed Properties Surrounding Fernhill, (Paul Davies Pty Ltd Conservation Management Plan 2014, Figure 279)



Further the Heritage Consultants note:

1. Proposed subdivision will not adversely impact Fernhill or Heritage Items in the vicinity, including Mulgoa Public School and St Thomas Church.
2. Subdivision of a portion of the Eastern Precinct has been identified (Paul Davies Pty Ltd Conservation Management Plan Figure 309) within the CMP as an appropriate technique to conserve Fernhill.
3. The development footprint is part of "several locations that are not directly affected by the heritage constraints of the original estate and where careful development could take place without impacting upon the heritage values of the core property" (Paul Davies Pty Ltd Conservation Management Plan 2014, p242)
4. Scenic character of the land within the periphery of the estate is not related to Fernhill, and

*"...considerable potential for new uses and development within the precinct provided that any heritage significant vistas are maintained and the development does not affect the visual setting of Fernhill..."* (Paul Davies Pty Ltd. Conservation Management Plan 2014, p242).

*There has been consideration over many years on the value of providing for development on non-significant or less heritage significant land to allow the very significant core holding to be consolidated and protected from future subdivision or development. This is a key technique to conserve Fernhill...Allowing development on non-significant or less significant parts of the estate to secure the core holding is a sound approach to heritage management and use of the property"* (Paul Davies Pty Ltd Conservation Management Plan 2014, p242).

The CMP has developed specific policies for subdivision and potential development on peripheral lands.

*Policy 108:*

*"The current area contained within the SHR listing should not be further subdivided and consideration should be given to consolidating this area into one allotment. The exception may be the small portion of the property to the east that became isolated from the main holding when Mulgoa Road was realigned in 1949"*

*Policy 109:*

*The Fernhill lands outside the SHR listed area may be subject to future development proposals, particularly where such development facilitates the conservation of the core Estate and buildings. Any proposal to sub-divide land outside the core area of the Estate, where that land is heritage listed under LEP 2010 should be undertaken under clause 5.10.(10) of the LEP and only undertaken where there is a link to facilitating heritage outcomes including conservation of the property.*

*Policy 110:*

*There is no particular constraint on the retention of lands outside the core site in relation to heritage value, noting that the land to the north south and west comprises a number of lots. Most of the larger estate lands do not make any contribution to the direct heritage values of Fernhill, although it is noted that a number of adjoining lots have view sheds across parts of the Fernhill property* (Paul Davies Pty Ltd Conservation Management 2014, p259)

Council indicated support for some form of development within the periphery of the estate on the basis that it would contribute to the ongoing preservation of Fernhill:

*"...Council has been and remains supportive of some subdivision or alternative uses(s) of the Fernhill Estate that would contribute in a measured way to the ongoing conservation of the Heritage Item*

*"Fernhill" and that could be accommodated within the environmental constraints and opportunities of the Fernhill Estate and surrounds (Penrith City Council, 20 February, 2014).*

Income, or part thereof, from the subdivision of the Eastern and Western Precinct's (sale of lots fronting Mayfair Road) will enable the conservation of Fernhill. The Developer will deposit funds into a trust account that will enable the works identified within the CMP to be undertaken.

The land highlighted in the Figure 4 below has been identified as appropriate for residential subdivision.

*"The scale of development, its sitting, its relationship to Mulgoa Township and Mulgoa Road and potential visual issues would need to be considered" (Paul Davies Pty Ltd. Conservation Management Plan 2014, p254).*



Figure 4 Site Plan showing areas that could contain Subdivision (Paul Davies Conservation Management Plan 2014, p241)

The State Heritage Land within the Fernhill estate is the largest intact heritage estate within Mulgoa Valley. The development footprint identified is only a small portion of the estate. The Valley is identified as significant for its picturesque landscape and historical significance.

Adjacent heritage items are St Thomas Church and Mulgoa School. There is also the consideration of the proposal on the setting of Mulgoa Road.

A Voluntary Planning Agreement has been drafted in conjunction with Council, which is the legal agreement for the implementation of the conservation of Fernhill.

The agreement sets out responsibilities of the proponent landowner and the Council.



### 3.3 Landscape Character

Mulgoa Valley lies south of Penrith between Regentville, Wallacia and Luddenham. At the western edge of the valley is the Blue Mountains National Park. The majority of Mulgoa Valley has been identified within the Scenic Landscape Values Map within the PLEP 2010.

The objectives of this clause are;

- To identify development areas that have particular scenic value either from major roads, identified heritage items or other public spaces,
- To ensure development in these areas is located and designed to minimize its visual impact.

The objective of this clause within the LEP is to mitigate the visual impact of development on land identified as "Scenic Landscape" particularly from major roads, heritage items and public places. We have reviewed the Landscape Character Strategy (2006) which informed the preparation of the Draft LEP and conducted our own analysis of the scenic qualities associated with the Valley.

The landscape character of the Valley comprise

1. Key landscape elements such landform slope vegetation and the creeks
2. The existing settlement pattern

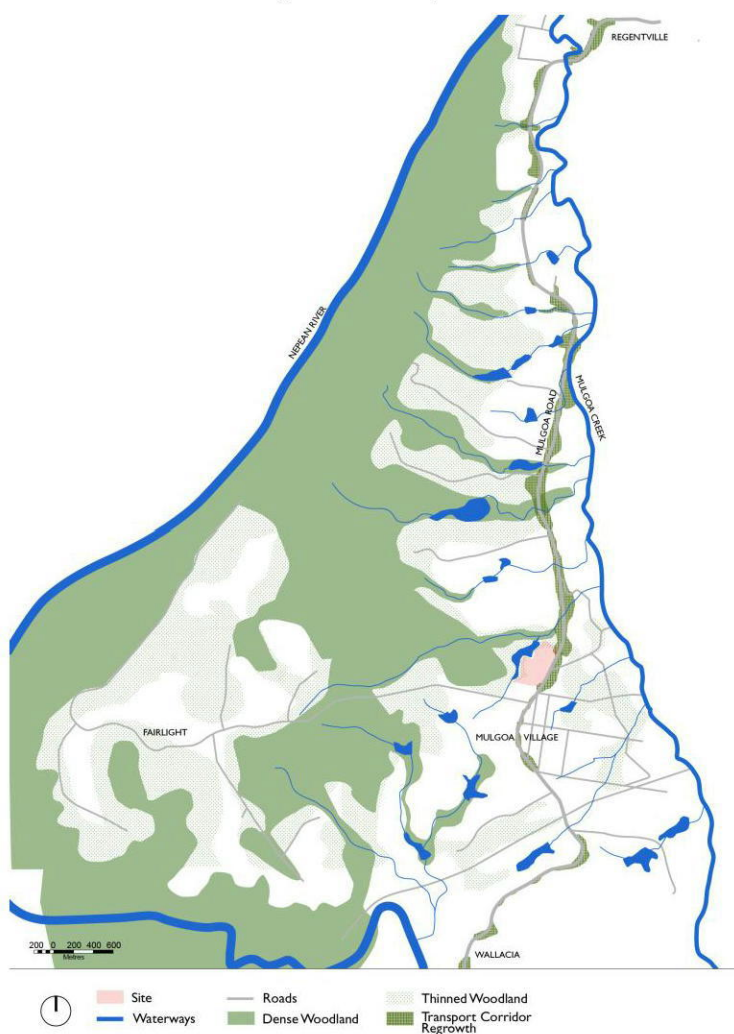


Figure 5 Mulgoa Valley Analysis

The slope, riparian corridors, the original land grants and later subdivisions have influenced the development pattern within the Valley, as illustrated in Figure 5.

Characteristics of the Valley that contribute to the scenic quality of the area are:

1. The Nepean River's Riparian Corridor that consists of dense vegetation (see Figure 6.1).
2. Mulgoa Creek and riparian corridors have dense vegetation buffers that traverse through several allotments within the area and connect with contiguous vegetation that adjoins the Blue Mountains National Park (see Figure 6.1).
3. Dense vegetation provides a buffer either side of Mulgoa Road (see Figure 6.2) with large portions of cleared land for agricultural activities within the front setbacks of large allotments north of the village (see Figure 6.2 and 6.3).
4. Clusters of built-form located within cleared flat areas located between riparian corridors often with wide setbacks and maintained open space (see Figure 6.4)



5. Pockets of cleared land between vegetated riparian corridors within the Valley. These are relatively flat and gently slope to the west, as seen in Figure 6.5 (Mulgoa Valley Receptions 2013).

Figure 6 indicates the existing settlement pattern. A pattern of settlement has formed between tributaries of Mulgoa Creek as illustrated in Figure 7.

- Smaller precincts have less buildings and larger setbacks.
- Larger precincts have more buildings on smaller allotments.

The Village of Mulgoa and the proposed subdivision site are located within the largest pockets, along with most existing development. Fernhill Estate occupies one of the larger pockets and it will continue to do so as it is located north of Littlefields Creek. Mulgoa Village is located within a large and relatively flat pocket within the Valley. The proposed subdivision sites within this pocket.

The village does not contribute to the Cultural Setting of the Valley (Paul Davies Pty Ltd Conservation Management Plan 2014). The historical buildings are widely dispersed within the village and residential developments have been developed post-war with no regard to heritage items within the vicinity. There is no consistent built-form or particularly positive attributes associated with the Village.

The future character of the valley will see a continued growth of these vegetated corridors connecting to the Blue Mountains National Park. Future development will occur within the cleared pockets.



Figure 6.1 Densely Vegetated Nepean River Riparian Corridor

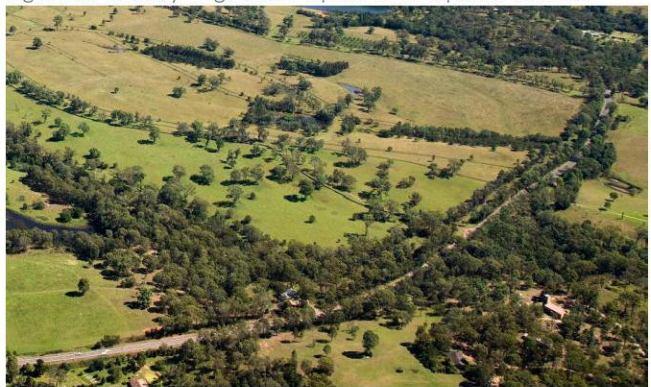


Figure 6.2 Dense Vegetation Buffering Mulgoa Road



Figure 6.5 Pockets of Cleared Land between Riparian Corridors

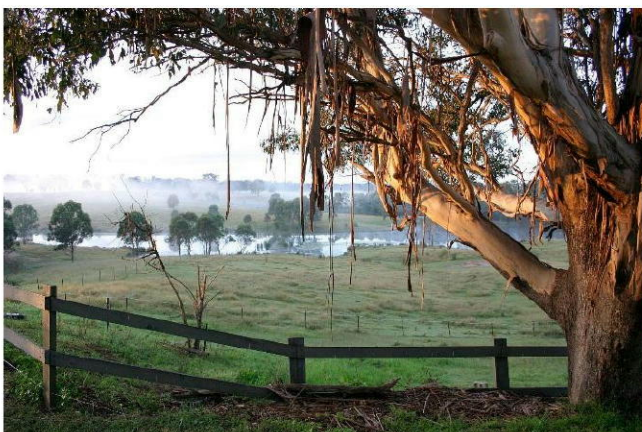


Figure 6.5 Cleared Land for Agricultural Activities



Figure 6.4 Clusters of Built-Form within Cleared Flat Areas



The picturesque landscape will remain, however located within pockets of spaces between riparian corridors throughout the valley, which is visible in Figure 5.

The proposed subdivision has to respond to the visual impact it will have from heritage items, major roads and public spaces. The application must consider, in relation to the scenic value of the land, how it will be viewed from Mulgoa Road, particularly when entering the village; heritage items within the vicinity, Fernhill Estate, St Thomas Church and two buildings within Mulgoa Public School.

### 3.4. Site Analysis

The subject site proposed for subdivision within the Eastern Precinct is immediately south of the Village and buffered from State Heritage listed curtilage of Fernhill House and Grounds by Littlefields Creek Riparian corridor and the dense vegetation to the north and west of the cleared land. This is visible in Figure 8, taken from the above the Eastern Precinct looking south towards the Village.

The 27.5ha Eastern Precinct is made up of 3 allotments; Lot 100 DP 717549, Lot 1 DP 570484, and Lot 6 DP 173159, and is primarily used for agriculture purposes and contains two dwellings. No development is proposed in Lot 6 DP 173159.

The precinct is bounded

- To the north by lot 10 615085 and (which is part of the State Heritage Curtilage of Fernhill), a vegetated riparian corridor to the north and west.
- To the east by Mulgoa Road and the south by large rural residential lots and Mulgoa Primary School.

The precinct contains a large farm dam that bisects the site from north to south and is a dammed tributary to Littlefields Creek which is a tributary of Mulgoa Creek.

The site is predominantly cleared and has been utilised for agricultural purposes since 1947 (Paul Davies Pty Ltd Conservation Management Plan 2014). Littlefield Creek, which flows through the site, was dammed and now provides a large body of water within the subject area.

There are two existing, residential dwellings in the Eastern Precinct. One house is located adjacent to Littlefields Creek, on 100 DP 717549 in a wooded area and is known as Woodend. There is a larger house located within the open grazing area in the Eastern Precinct on Lot 1 DP 570484.

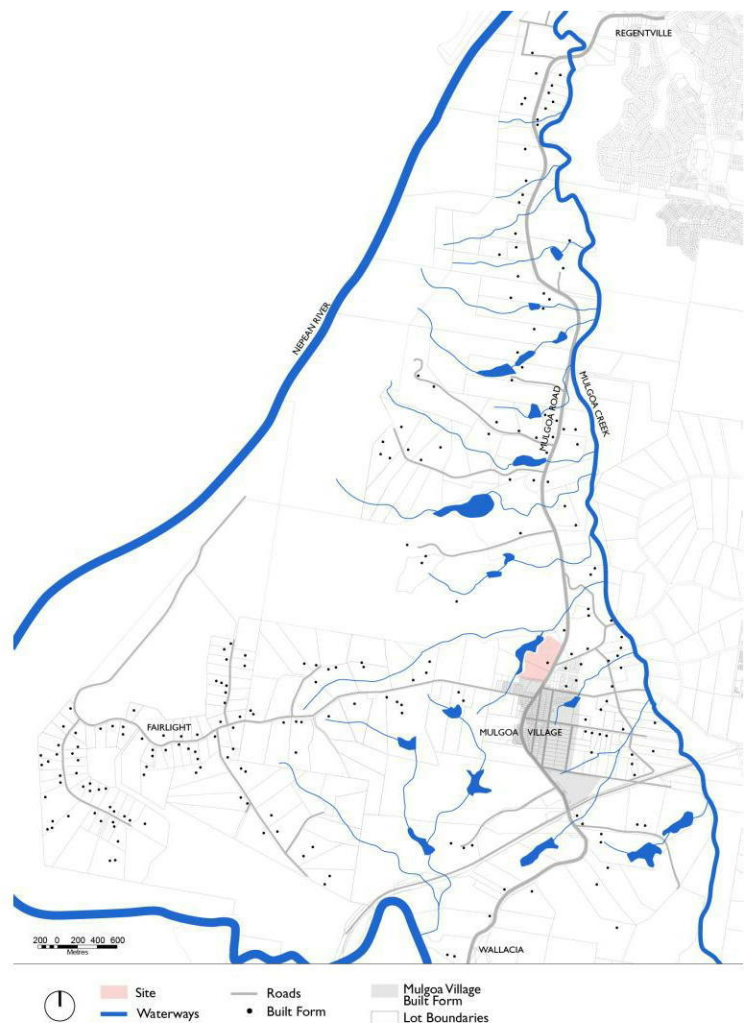


Figure 7 Built-Form Pattern within Mulgoa Valley



The area within the Eastern Precinct proposed for subdivision fronts Mulgoa Road and is just north of Mulgoa Public School, and bounded to the west by a large farm dam. This area is gently undulating, rising to a grassed low ridge, and is partially obscured by dense tree cover along the verge of Mulgoa Road.

Six archaeological sites are within the boundary of the Eastern Precinct, this includes the former slab hut that was severely burnt in the 2001 Bushfires.

Mulgoa Park is located to the east across Mulgoa Road. It provides a rural setting and soft entrance at the Northern gateway to the Village before the transition to more dense vegetation further north.



Figure 8 Aerial Image of Eastern Precinct, south facing towards Mulgoa Village

### 3.4.1 Ecological Analysis

The Ecology report prepared by GHD has indicated that there are four types of vegetation communities in the development site.

- Grey Box – Forest Red Gum grassy woodland on flats, in a moderate condition (Cumberland Plain Woodland, TSC Act).
- Regrowth Grey Box - Forest Red Gum on grassy woodland flat, in a low condition (Cumberland Plain Woodland, listed under TSC Act).
- Forest Red Gum- Rough barked apple grassy woodland, in a moderate/good condition (River Flat Eucalypt Forest, listed under TSC Act).
- Cleared land, exotic grass land.

The location of these vegetation communities is illustrated in Figure 9.



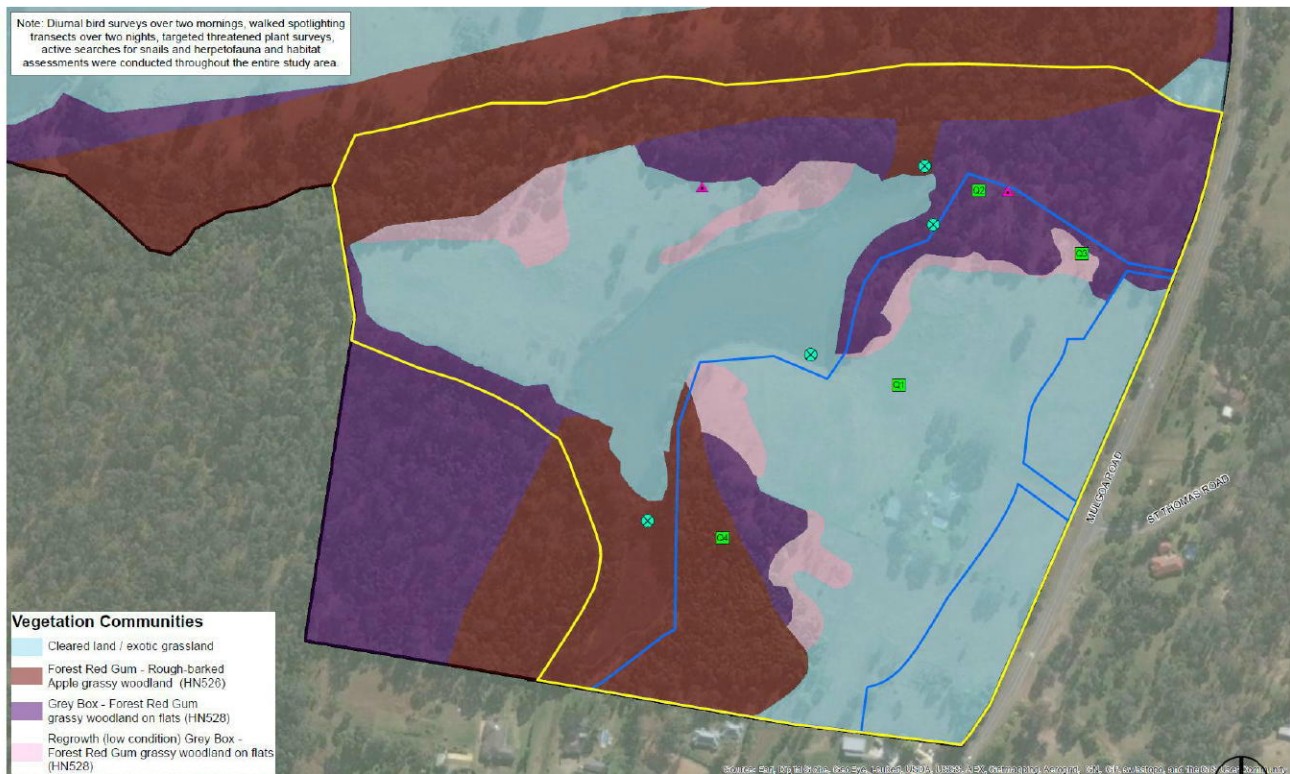


Figure 9 Vegetation Communities (GHD EP Ecology Assessment 2014)

A total of 62 species of native fauna were recorded during field surveys, comprising of three frog species, 56 broad species, one mammal species, one reptile species and one snail:

Two threatened species identified within the NSW TSC Act were recorded:

- The Cumberland Plain Land Snail, and
- The Varied Sittella, which is listed as vulnerable.

57 broad species were recorded, the majority were common woodland broad species often seen in semi-urban bush remnants around Sydney (GHD EP Ecology Report 2014).

The area east of the large dam is predominantly cleared and has been identified as suitable for residential development (GHD EP Ecology Assessment 2014). The clusters of vegetation that is located west and to the north of the large dam are in a good condition (GHD EP Ecology Assessment 2014). The area most appropriate for residential development is within a footprint that is west of the dam that contains vegetation within a moderate condition that if is currently fragmented from the vegetation west of the dam.

There is an opportunity to provide a development footprint that does not fragment any opportunity or remove any vegetation in a good condition. The development site will provide an edge to the vegetation to the west of the dam and grey box gum that forms part of the riparian corridor of Littlefields Creek.

### 3.4.2 BioBanking

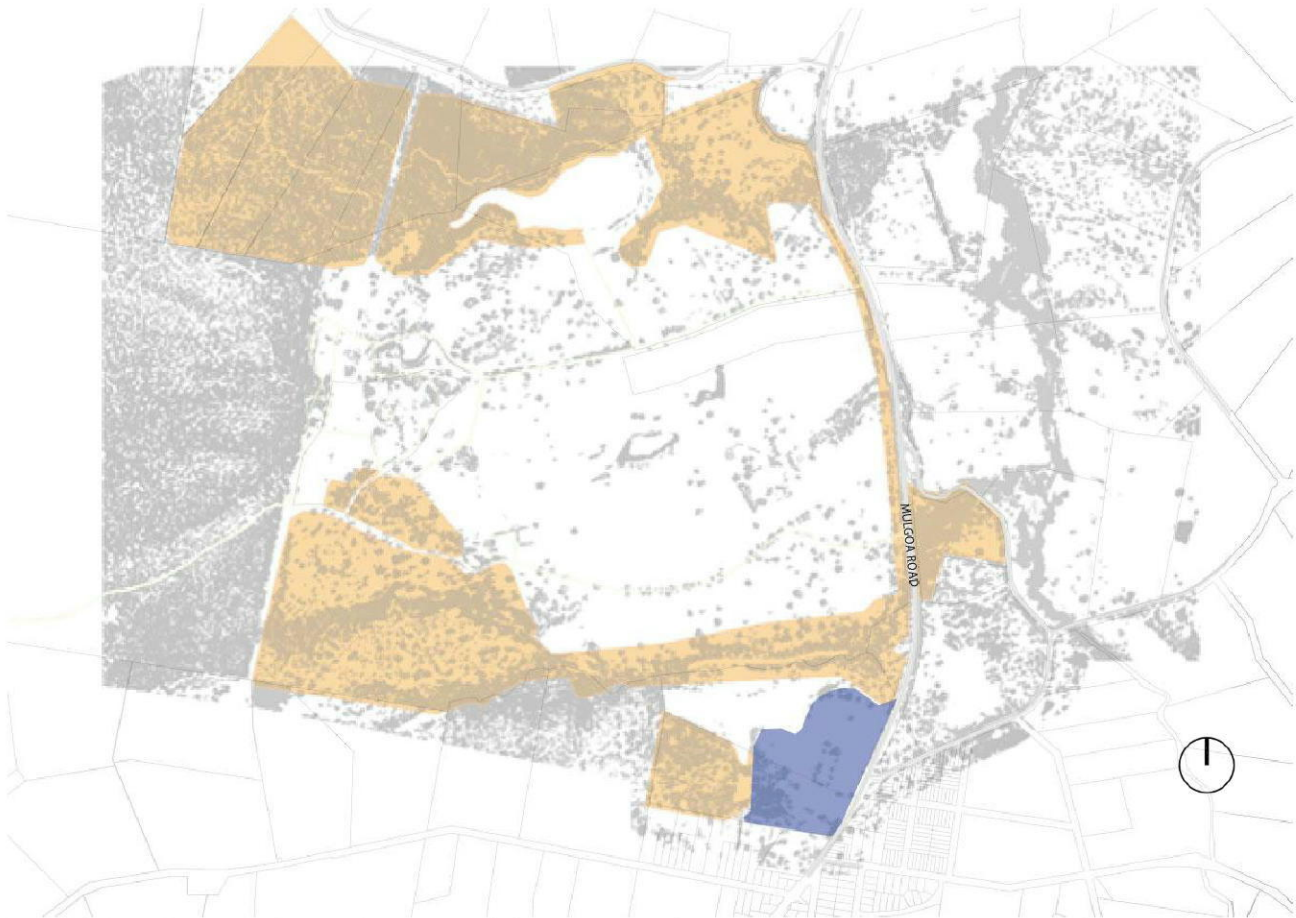


Figure 10 Areas Forming BioBanking Agreement 112 (shown in orange); Eastern Precinct Development Footprint (shown in blue)

The dense vegetation, visible within the aerial photo (see Figure 8) forms part of the BioBanking Agreement 112 area, as identified in orange in Figure 10.

This agreement will ensure the vegetation that has been highlighted orange in Figure 10 will remain in its current condition in perpetuity. The vegetation provides a buffer between the Eastern Precinct and the core estate and buildings.

The BioBanking agreement preserves the highlighted vegetation west of the lake and north of the Eastern Precinct, acting as a permanent buffer between Fernhill Curtilage and land within the periphery proposed for subdivision.

Dense vegetation west of the house forms part of Biobank agreement 117, which protects a link of significant vegetation, which links with agreement 112 to the Blue Mountains National Park.

### 3.4.3 Riparian Corridors

Littlefield Creek has a riparian corridor that separates the eastern precinct from lot 10 DP615085 that forms part of the State Heritage Curtilage of Fernhill. It is a tributary of Mulgoa Creek.

Within the eastern precinct, a tributary to Littlefields Creek widens to become a dam before discharging into flats west of the dam this dam bisects the subject site.

The opportunities of the proposed development are to:



- Enhance and improve the environmental qualities of Littlefields Creek riparian corridor.
- Retain the existing dam. The Ecological Assessment has identified that the large dam has a: *"high diversity and abundance of waterfowl waders and other wetland birds during the site survey and may provide foraging habitat for threatened wetland birds such as the Australasian Bittern (Botaurus poiciloptilus) or Australian Painted Snipe (Rostratula australis) on occasion. These wetlands would provide habitat for native fish and aquatic invertebrates and potential breeding habitat for a number of pool breeding frogs, potentially including the Green and Golden Bell Frog (Litoria aurea)"* (GHD EP Ecology Assessment 2014, p27).
- Locating the residential development footprint to the south and west of the riparian corridor will protect this habitat in perpetuity.

#### 3.4.4 Views and Vistas

The Eastern Precinct does not have any heritage views or value associated with it in relation to Fernhill. The subject site has a corridor that provides a glimpse towards Fernhill house and grounds.

*The CMP addresses views and has assessed that the mapped view over the Eastern Precinct is not a significant heritage view, that is, it is not a view that has any particular heritage value. Rather it is a glimpse across trees and paddocks towards the hill on which Fernhill house is located. It is not a planned, historical or intended view and has limited if any heritage significance* (Paul Davies Pty Ltd. Conservation Management Plan & EP Heritage Impact Statement 2014, p25). *"There is some views across the landscape that provide a distant view of the grassed slope leading up to the house garden, a dense area of vegetation and that forms the house garden and a glimpse of a roof beyond"* (Paul Davies Pty Ltd. Conservation Management Plan 2014, p155).

The views are incidental as if somebody was driving past the subject site they would not be able to see the view described above, however if the viewer is stationary and within the view corridor identified on the site analysis diagram (Figure 11) the view would be seen.





Figure 11 View Corridors from Mulgoa Road Towards Fernhill Estate (shown in light blue); Eastern Precinct Development Footprint (dark blue)

The significant regrowth of vegetation to the north and west of the subject site has hindered the view towards the house. The subject area has no historical significance associated with Fernhill or other local Heritage Items, thus the views identified within the area are not significant.

Figure 12 is a photograph of the view towards Fernhill taken from Mulgoa Park, across the road from the development site. The grassed slope leading towards the house is visible beyond the dense vegetation that borders the site.



Figure 12 View from Eastern Precinct Towards Fernhill Estate

### 3.5.5 Bushfire

The subject land is designated as bushfire prone land due to the vegetation that adjoins the site. The presence of bushfire prone land will always impact the subject land and future residential development will have to address the Rural Fire Act 1997.

### 3.5.6 Archeological Impacts

Austral Pty Ltd undertook archaeological assessment of the Eastern Precinct and its findings can be seen in Figure 27. Three archaeological sites are within the development site, with a further 3 located on the opposite bank of the lake (i.e. within the consolidated Central Precinct).

The items located within the boundary of the Eastern Precinct are found in proximity to the lake, outside of the development footprint. This, in addition to their being within the riparian corridor that forms a vegetated buffer between the development and the natural watercourse.



### 3.4.6 Development Footprint

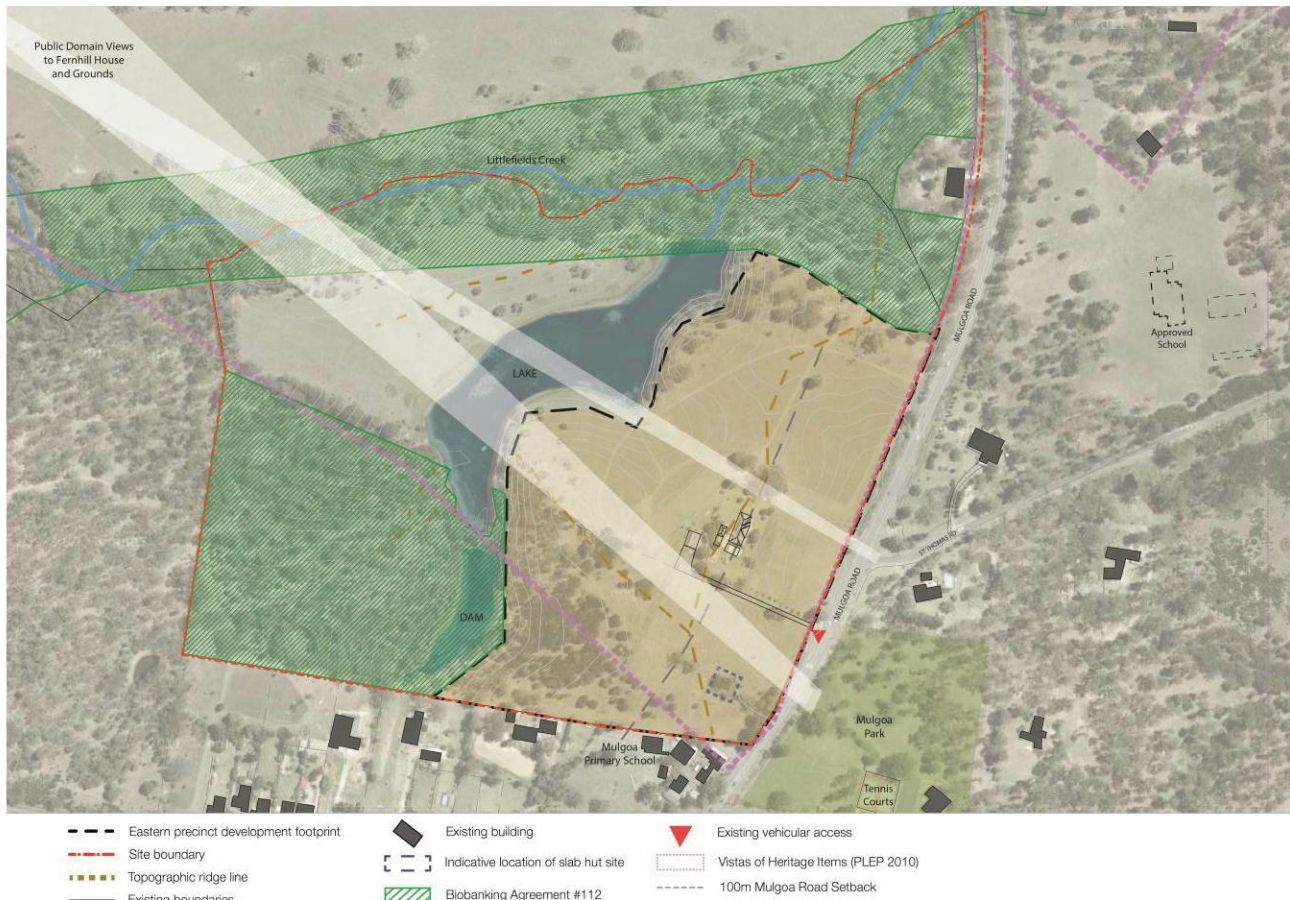


Figure 13 Development Footprint of Subject Site

The key considerations that the development footprint considered in formulating the footprint for development were;

- Heritage
- Biodiversity
- BioBanking
- Riparian corridors
- Bush Fire

The proposed subdivision has to respond to the environmental considerations of the site and surrounding area. Particularly the topography, archaeology, traffic and impact the proposed subdivision will have on the amenity of surrounding buildings.

The development footprint is significantly smaller from what was identified within the CMP (Figure 13). The area west of the dam is excluded due to issues involved with crossing of the dam, which provides habitat for local biota. Land west of the dam will be consolidated with Fernhill Estate and protected from future subdivision. The area of Fernhill Land holdings is 643ha, the Eastern Precinct is 28ha and the proposed development footprint is 8.67ha of land.





Figure 14 Illustrative Plan (ae design partnership Pty Ltd.)



## 4.0 The Proposal

The proposal is for the subdivision of 50 Torrens Title allotments, associated works that incorporate the demolition of the existing house and ancillary structures in a defined portion of the Eastern Precinct accessed from Mulgoa Road, pursuant to cl 5.10(10) of the Penrith Local Environmental Plan 2010.

### 4.1 Subdivision

The proposed allotment layout is illustrated in Figure 14. The proposed development includes:

- 50 Torrens Title residential allotments, accessed from Mulgoa Road, as per the Development Application drawings prepared by ae design partnership that form part of this application.
- Demolition of the existing house, ancillary structures and pool at Lot 1 DP 570484.
- Construction of roads, bushfire tracks, stormwater infrastructure and other infrastructure etc. to service the allotments, as per the plans provided by Mott MacDonald that forms part of this application.
- Construction of a residential entrance, which incorporates a bridge, stone wall and space for signage.
- Residential lots range in size and are between 750 and 1,770 sqm in size.
- A pedestrian entrance to the proposed development. This will coincide with the footpath that commences outside Mulgoa Primary School.
- The grouping and siting of the residential allotments to:
  - Maintains the rural landscape that adjoins the Village of Mulgoa, through the provision a setback from Mulgoa Road,
  - The pattern of the subdivision reflects the rural character of the area and maintains vistas towards Fernhill.
- The new road is set back 65m from Mulgoa Road. Buildings are setback between 65 to 90m from Mulgoa Road to provide a scenic landscape buffer to Mulgoa Road. This also maintains the existing rural setting entering the Village from the north towards Mulgoa Public School, which is a local Heritage Item.
- A setback that will be landscaped with clusters of vegetation and shrubs that are adjacent to the road.
- The maintenance of a vista to the heritage listed school when entering Mulgoa Village from the north.
- The retention of the existing dam west of the development footprint.
- The maintenance and enhancement of ecologically significant communities to the west of the lake, which are part of a BioBanking agreement that will preserve the vegetation in perpetuity.
- The location of the subdivision with the existing cleared land and areas with exotic grassland.
- The removal of some vegetation in moderate condition

*"The potential impacts of the proposal would affect a very small proportion of local habitats and their population"* (GHD EP Ecology Assessment 2014).

*"The proposal will require the removal of vegetation, which is considered to be in moderate condition, however the removal of vegetation will not result in the isolation or fragmentation of any significant areas of vegetation"* (GHD EP Ecology Assessment 2014).

- A vista towards Fernhill is incorporated within the design as illustrated on the development footprint diagram (Figure 13), which will be publicly accessible open space with no built form, as illustrated in the lot layout (Figure 16).



- The entrance to the development area aligns with St Thomas Road intersection with Mulgoa Road in accordance with desirable network management practices (Mott MacDonald EP Traffic Impact Assessment 2014).
- The detailed design of future dwelling houses will be subject to further assessment from Penrith Council, however, key considerations as part of the subdivision are landscape and the siting of dwellings and these are addressed as follows:
  - The 50 residential lots have been designed to accommodate a typical building pad 12m x 25m, which includes a garage or a carport.
  - Draft design guidelines will be prepared to inform Council when assessing the building design of the Eastern Precinct, which has been informed by the rural character and siting of the site.
  - Housing will be consistent with the existing controls for residential development in the Mulgoa Village, contained in Penrith Development Control Plan 2010.

Land that does not form part of the subdivision will be consolidated within the State Heritage title, which is being enlarged as part of this application.

## 4.2 Roads

The proposed roads have a rural character. The road follows the contours of the site and has similar pattern to the lake that traverses through the site;

- There is a swale either side of the road, which provides a soft edge to the road.
- Ensures the safety of pedestrians and vehicles and their drivers by forcing vehicle volume and speed to remain low, in keeping with the rural residential character of the locality. Furthermore, its loop design allows service and refuge vehicles to enter and exit without having to execute a U-turn. There is one



Figure 15 Landscape Plan (ae design partnership ntv ltd)

access point from Mulgoa Road. The main entrance is aligned with St Thomas Road and Mulgoa Road. This intersection incorporates a channelized right turn, which is illustrated within the civil plans prepared by Mott MacDonald;

*"The proposed channelized right turn treatment is anticipated to improve the performance of the right turning traffic movements from Mulgoa Road to St Thomas Road (Mott MacDonald EP Traffic Impact Assessment 2014, p32)."*

- The proposed road reserve within the development will be 15.6m wide, consisting of an 8m asphaltic concrete road and 1.4m of deep soil landscape incorporating grass within the swale on either side of the road.
- As part of bushfire mitigation measures, a new 6m fire trail that has two access points within the new road layout is proposed to the western boundary of the subdivision.
- Road design and detail are provided in the civil plans, which form part of this application prepared by Mott MacDonald.

## 4.3 Landscape

The landscape design of the proposed subdivision incorporates characteristics attributed to the valley, which is depicted in the landscape plan prepared by ae design (Figure 14).

These landscape features are as follows:

- Retention of as many trees as possible to maintain the existing rural character of the site.
- Trees, including Silky Oak (*Grevillea Robusta*) and Brush Box (*Lophostemon Confertus*), planted.
- Shrubs, including Glossy Abelia (*Abelia Grandiflora*), Tea Tree (*Lophostemon Spinescens*), Native Rosemary (*Westringea Fruticosa*) and Sick Wattle (*Acacia Falcata*), planted.
- A setback from Mulgoa Road creating a wetland environment that incorporates low shrubs and Silky Oak to form pockets of open space, frame and focus views to the landscape beyond and to screen houses within the development.
- A natural shaped on-site detention basin formed by the natural contours of the land within the setback from Mulgoa Road.
- Rural post and rail rough cut timber fence along Mulgoa Road to reinforce rural character of the site whilst screening houses beyond.
- Box Brush street trees spaced at irregular intervals along the internal road network.
- A minimum 16m to a maximum buffer between the development footprint and the lake.
- Allotments with sufficient space for maximum tree retention and well-presented front gardens.
- Approximately 2.5ha of publicly accessible open space that has views toward Fernhill Estate within the setting of the Mulgoa Valley landscape and the Blue Mountains National Park in the background.

The landscape design of the proposed developments incorporates characteristics associated with Mulgoa Valley's landscape character. The design of the subdivision considers the location of existing significant vegetation and locates new planting in areas that will minimise the impact of the subdivision on surrounding buildings and spaces.





Figure 1.6 Subdivision Layout and Landscape of Development Proposal

## 4.4 Residential Entrance

A new entrance road has several key features;

- Access to the proposed subdivision of the Eastern Precinct is by a small bridge over a culvert. This has been designed to provide a feature entrance to the new subdivision.
- There is continuation of the wooden fence on either side of the new entrance road that will provide a space for the lettering of the proposed developments name.
- Stone feature walls at either side of the access bridge reflect typical entrances that are seen along Mulgoa Road.
- The surface on the bridge is made out of pavement that differentiates the bridge with the new road.
- The bridge will cross over the on-site detention basin that utilises existing contours to create a natural setting and plants
- Turning circles are designed and adjusted to allow garbage trucks to service the development.

These features are illustrated in Figures 17.1 and 17.2.

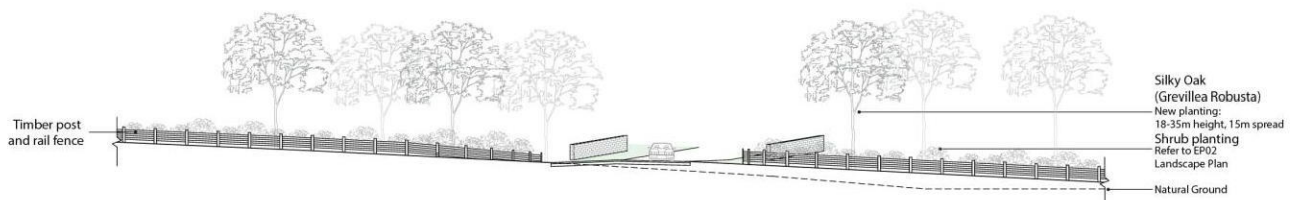


Figure 17.1 Eastern Precinct Residential Entrance Elevation A-A

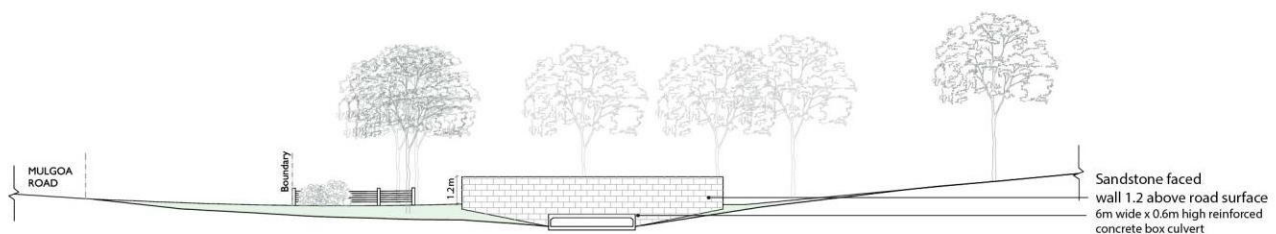


Figure 17.2 Eastern Precinct Residential Entrance Elevation A-A

## 4.5 Infrastructure

All necessary infrastructure is available to the site as summarised;

- The proposed development will obtain potable water from a 100mm main that exists on Mulgoa Road. It will be extended from the Mulgoa Road and Fairlight Road intersection to each allotment within the subdivision.
- Sewage for each property will drain by gravity to a pumping station located on the Western edge of the site, and then be discharged to the Mulgoa sewage system via a rising main.
- Electricity for each property will be connected underground to the existing overhead lines located on Mulgoa Road.
- Available telecommunication services will be extended from Mulgoa Road to service all allotments via underground cables.



## 4.6 Stormwater

The majority of the site drains to the existing farm dam a tributary of Littlefields Creek, while part of the open space within the setback to Mulgoa Road drains to Mulgoa Road.

In Summary

- Within the 50 lot residential subdivision, the stormwater runoff will be mitigated through the construction of two onsite detention systems that incorporate an overflow weir and geotextile fabric which have been sized to accommodate the runoff from the proposed development.
- A further detention basin is incorporated within the landscape setback between the development and Mulgoa Road to manage the stormwater flow to Mulgoa Road. Various mitigation measures are incorporated to mitigate the impacts of pollutants leaving the site, such as gross pollutant traps.

## 4.7 Consolidation of Residual Land

Residual land not part of the Torrens title allotments or the road will be consolidated within the State Heritage listed titles within the Central Precinct. The land that will be consolidated is illustrated in Figure 18.

In Summary;

- Public open space and landscape within the setback between Mulgoa Road and the development footprint will be consolidated within Fernhill Estate.
- The new road will be dedicated to Council.

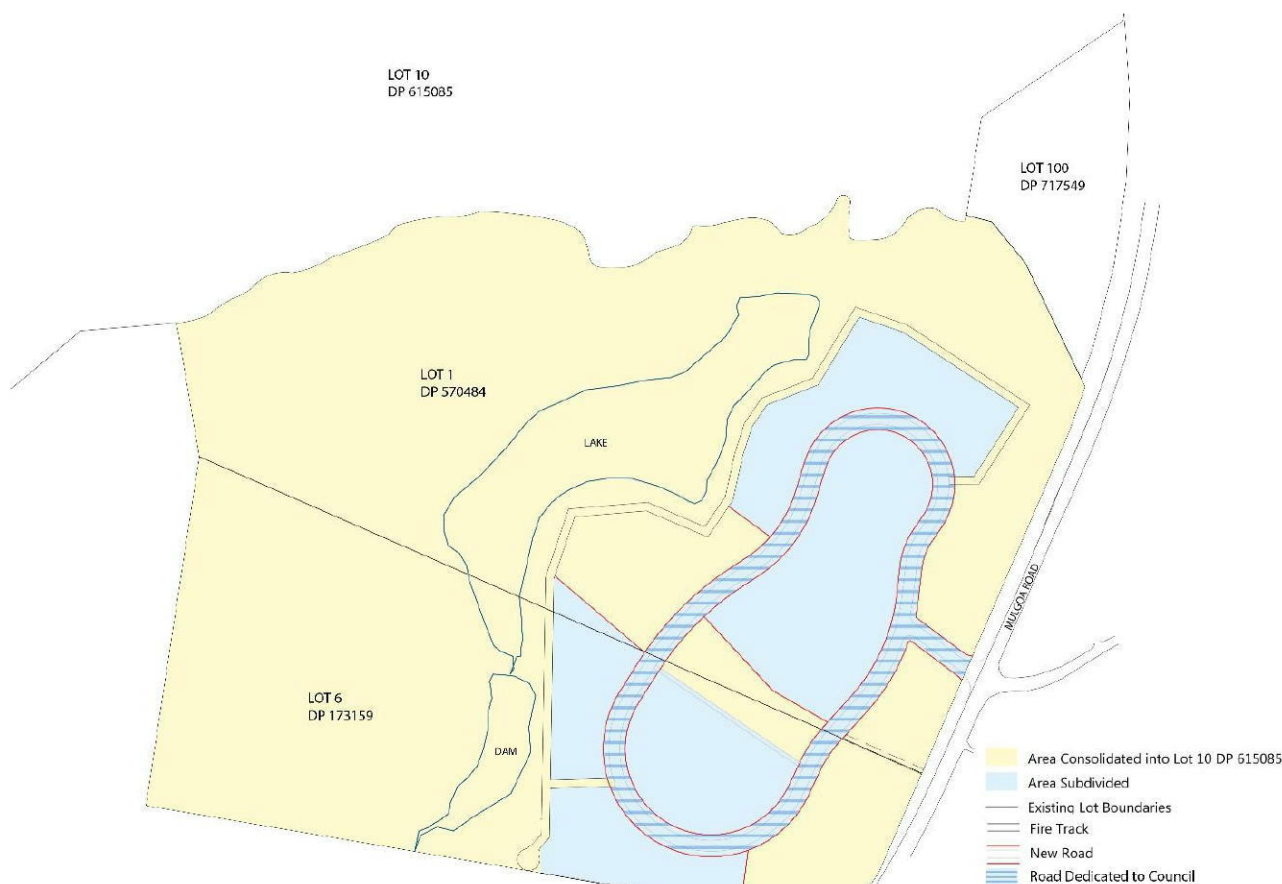


Figure 18 Consolidation of Peripheral Land within the East

## 4.8 Conservation of Fernhill

- A primary objective of the application is the protection of Fernhill house and grounds. This application has provided a development on the periphery of the estate, which will facilitate the conservation of the State Heritage item.
- The owner of Fernhill will be responsible for meeting the maintenance and repair obligations identified within the CMP, the Planning Agreement will contain a two year rolling projection of works to be done and a reporting system against the projected works with evidence and costing.
- The long term conservation of the estate will be bound by a Voluntary Planning Agreement, which imposes responsibilities on the landowner of Fernhill Estate and Council to ensure that the estate does not fall into disrepair.
- In order to secure the money required to preserve the estate a development fund will be set aside from sales of land within the subdivision of land. An amount of \$300,000 per annum is required to complete the necessary works.
- Biodiversity Agreements will ensure that a large areas of ecologically significant vegetation are protected in perpetuity.

The proponent's is finalising legally binding agreements that ensure the ongoing conservation and maintenance of Fernhill house and Grounds. These agreements have been co-authored with Council.



## 5.0 Environmental Consideration

### 5.1 Mulgoa Valley

The proposed subdivision has to respond to the visual impact it will have from heritage items, major roads and public spaces. Thus the key impacts the proposal must consider in relation to the scenic value of land is how it will be viewed from Mulgoa Road, particularly when entering the village; heritage items within the vicinity. This is considered within part 5.3 of this part of the report.

The landscape design and site planning has considered the rural characteristics of Mulgoa Valley this is addressed within part 5.4 within this part of the report.

The visual impact the development will have on the subject site and Fernhill estate is considered within 5.5 of this part of the report.

The public space within the vicinity is Mulgoa Park, does not have a relationship with the development site. It is accessed from Littlefields Road, amenities and seating are orientated east away from the subject site.

Environmental considerations that are identified within cl 6.9 Mulgoa Valley PLEP 2010, have been addressed within 5.3 to 5.14 of this part of the report.

### 5.2 Built Form

Mulgoa Village does not have a consistent built form. The majority of residential dwellings are of a variety of materials and shape. There is no prominent character of residential dwellings within the village.

Proposed residential dwellings within the Eastern Precinct will be subject to separate Development Applications. We anticipate that the houses along Mulgoa Road will be single storey, potentially with rooms in the roof space.

Draft design guidelines for the proposed subdivision within the Eastern Precinct will be provided at a later stage this will inform Council during the assessment of residential buildings. These guidelines will address:

- Appropriate envelope for dwellings located within close proximity to the ridgeline, for example some buildings within 100m of Mulgoa Road may have building height restrictions.
- Height, bulk and scale including façade treatments, roof form and type of landscape within the front setback of the allotments.

Draft typologies for dwellings within the Eastern Precinct that could be incorporated within the Draft Design Guidelines for the subject site;

## 5.3 Amenity

The proposed development is located north of Mulgoa Village. Mulgoa Public School forms an edge to the village. The existing site is currently cleared land with clusters of remanent vegetation. The proposed development will change the landscape of the subject site having an impact on the visual setting of the school and rural residential property located at 9 Fairlight Road, Mulgoa.

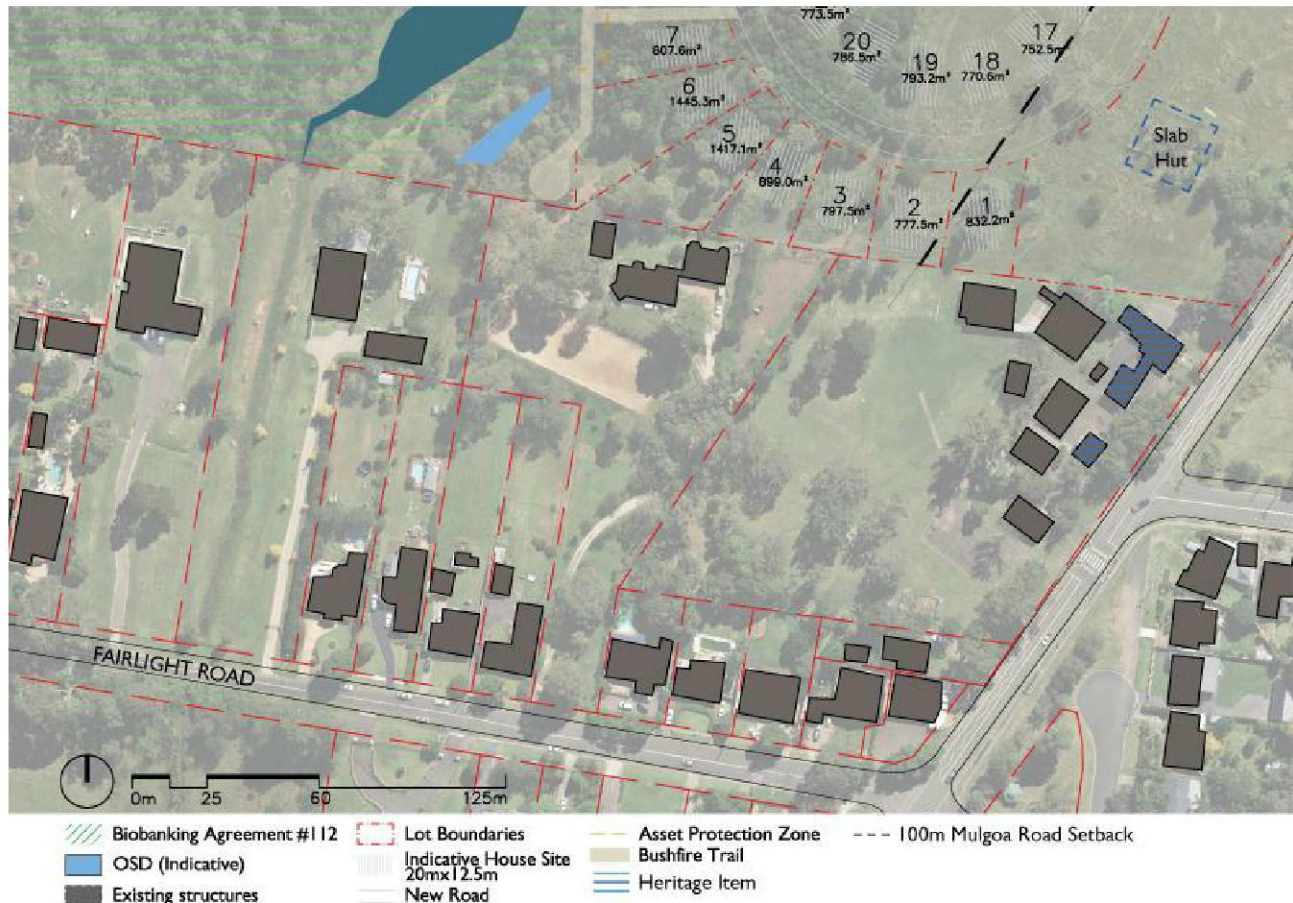


Figure 19 9 Fairlight and Mulgoa Primary School

### Mulgoa Primary School:

Coloured blue in Figure 19, Mulgoa Primary School is positioned at the entrance to Mulgoa Village. As seen in Figure 21.1, the school comprises of a heritage building (also depicted in Figure 21.2) as well as a more recent structure.

The northern face of the heritage building is visible on the right, though partially obscured by a cluster of vegetation and staff parking, when entering Mulgoa Village via Mulgoa Road. The approach along Mulgoa Road is shown in Figure 20 (right).

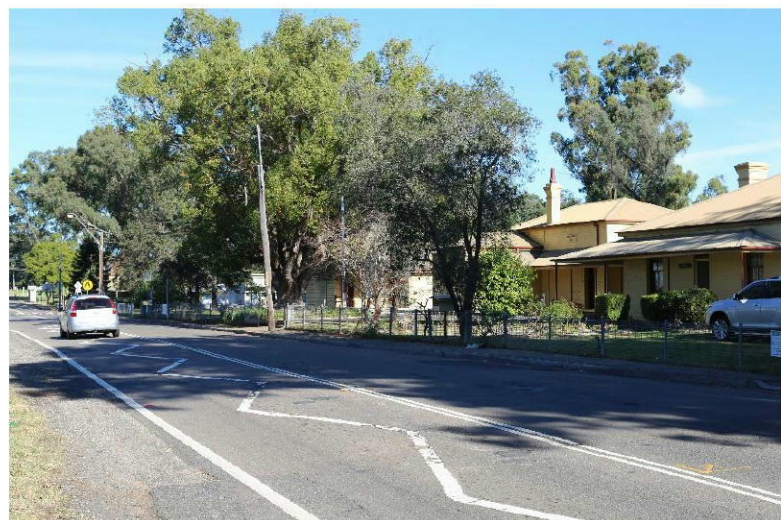


Figure 20 Mulgoa Primary School from Mulgoa Road





Figure 21.1 New (right) and Heritage (left) Buildings Comprising Mulgoa Primary School



Figure 21.2 Mulgoa Primary School Heritage Building

The proposed subdivision is setback from Mulgoa Road by 65 to 90 metres from Mulgoa Road. This area will incorporate an entrance to the residential subdivision, an on-site detention basin and approximately 2ha of space preserved for informal landscape that retains significant trees. Maintaining the rural landscape along the Mulgoa Road will retain the historic buildings within the school as the entrance to the Village.

The impact of the proposed development on the amenity of the school is minimal. Lots 1 and 2 are located west of the historic school building. These lots are adjacent to the new school building constructed in 2008 (Figure 21.1), which is modern building with an imposing bulk within the visual context of the site.

#### 9 Fairlight Road,

This part of the report analyses the existing conditions within 9 Fairlight and where lot 4 and 5 are proposed. The retention of landscape, planting of vegetation that occurs within the area and separating future buildings will reduce the impact of the proposed development on 9 Fairlight Road. The retained natural vegetation is depicted on the right in Figure 22.1 and 22.2.

9 Fairlight Road, Mulgoa is located adjacent to lot 4 and 5 of the proposed subdivision. The block is irregular in shape and is approximately 9,765sqm in size. The existing house is located at the rear of the property within 5m of its rear boundary line (illustrated in Figure 23).

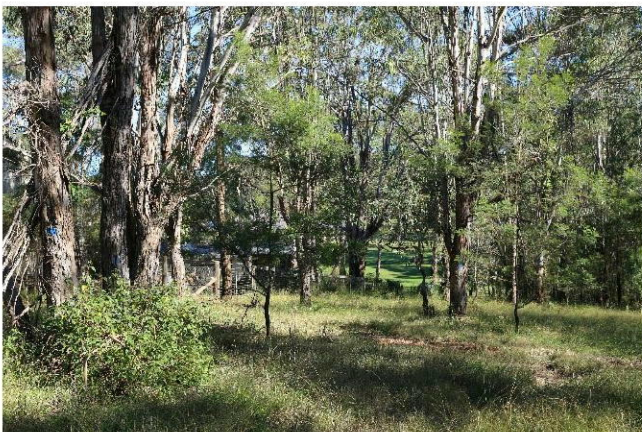


Figure 22.1 9 Fairlight Road and Eastern Precinct Boundary

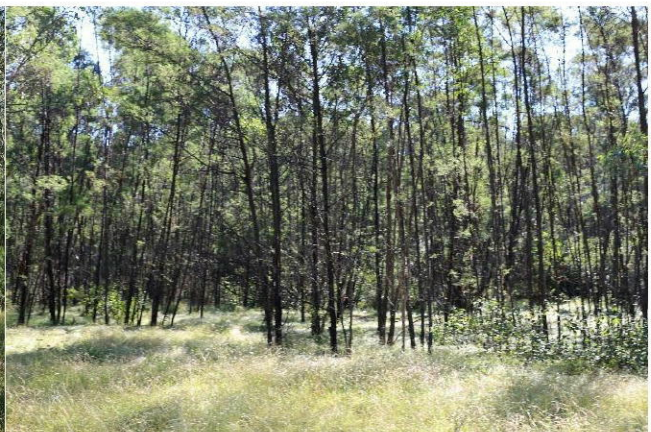


Figure 22.2 View from Space Two





Figure 23 Fairlight Road, Boundary Landscape

Space One: is located east of the house..

The space runs from the rear boundary of Lot 4 along the eastern side of the property. The space just east of the hedge is used for the parking of vehicles and incorporates a clothesline, indicating it has low amenity. The proposed landscape will prevent Lot 3 from being viewed from the house.

Space Two is the eastern portion of the residential dwelling.

It is located approximately five metres from Lot 4's boundary. The view from this space is depicted in Figure 22.2. This space does not appear to be frequently used and one set of windows has been blocked out. This space will be most impacted by the proposed development, as there is minimal existing vegetation located where lot four is proposed. Mid to low storey planting is proposed within this area to mitigate the visual impact of the development.

Space Three is located between the western portion of the house.

A trampoline and two double doors to the house that open to this area are found in Space Three. There is no outdoor dining or paving, which would suggest that the space is the existing resident's private outdoor space.

Lot 5 is 1,417sqm this enables the retention of vegetation within the south west corner (illustrated in Figure 22.1) of the allotment. Within the landscape plan mid (*Grevillea Robusta*) and low storey (*Grevillea Juniperina*) has been proposed to retain the existing character the grey box woodland currently provides the site.



The proposed subdivision breaches the PLEP 2010 - the minimum lot size of 'AB2' 20ha. The impact of the proposed subdivision on the amenity of 9 Fairlight has been mitigated through site planning and proposed landscape.

### Mulgoa Road

The Penrith DCP for dwellings within the Mulgoa Road Transport Corridor to be setback 100m from Mulgoa Road. The objectives of this control are to preserve the rural character and to preserve site lines. The proposed subdivision may result in some buildings that do not comply with the 100m setback.

The proposed development will not significantly change the Mulgoa Road landscape character, reflecting the existing setting upon entry to Mulgoa Village via Mulgoa Road (as seen in Figure 24.1 and 24.2).

There will be glimpses of buildings visible from Mulgoa Road. The majority of the area will be informal landscape that incorporates significant trees, understorey and shrubs that will constrain direct views to future dwellings.

*"The proposed intersection treatment provides safe and efficient access to into the site for vehicles travelling along Mulgoa Road"* (Mott MacDonald EP Traffic Impact Assessment 2014, p28).

While there is a noncompliance in having built-form within the 100m setback control from Mulgoa Road the development retains sufficient space within the setback for landscape.

## 5.4 Landscape

The subdivision includes 2.5ha of open space, located along Mulgoa Road and along the view corridor toward Fernhill Estate.

### Rural Character

The rural character is retained through:

- The informal landscape within the setback that fronts Mulgoa Road
- Rural post and rail rough cut timber fence constructed along Mulgoa Road,
- Maximum existing trees retained, and
- Box Brush Street trees spaced at irregular intervals along the internal road network.

### Open Space

- 2.5ha of publicly accessible open space,
- New trees planted to create meadow like spaces,
- A linear pattern of open space connecting the open space within the development footprint to Mulgoa Park, providing a pedestrian connection to the Village,
- A riparian corridor with dam and associated vegetation (that adds to the scenic quality of the landscape) retained through the siting of the built form entirely east of the dam,
- A minimum 10m buffer between the development footprint and the lake,
- Sufficient space provided for well-presented gardens through large allotment sizes, and
- Some trees removed from the south-western and north-western corners of the site to make way for dwellings.

### Trees

- The proposed subdivision will result in 178 trees representing 71.5% of existing 249 trees.

- 69% of existing trees will be retained.
- 31% of existing trees will be removed.
- 73 trees will be planted.

## 5.5 Visual Amenity

### Visual Impact on Locality

The visual impact of the proposed development when viewed from Mulgoa Road is minimal based on the analysis in the CMP and the site and landscape analysis. Some buildings will be visible from Mulgoa Road. The visual impact will be mitigated through new planting, retention of vegetation and implementation of design guidelines for future buildings.

The view toward Mulgoa Primary School from the northern portion of the development is maintained through the set back of subdivision from Mulgoa Road. By maintaining the school as the entrance to the village of Mulgoa will reduce the impact of the future development on the visual amenity on the village.

The proposed subdivision will not impact the visual amenity of Mulgoa Park opposite the site. Mulgoa Park is currently not accessible from Mulgoa Road it is accessed from Littlefields Road and the facilities, amenities and seating are located over 115m from the subject site. The seating arrangements of the outdoor dining facilities are located in the opposite direction to the subject site.

Vehicles that travel pass the subdivision will see glimpses of residential development. Houses located closest to Mulgoa Road will be seen in part, however their visual impact will be minimal as the front setbacks of allotments along the Mulgoa Road Frontage will have landscape requirements and where possible incorporate existing planting as well as the landscaping proposed in the setback from Mulgoa Road. These features are typical of the rural context of the subject site.

### Visual Impact on Existing Views

As discussed in part 3.4.4 of this report there are two views where glimpses of the roof of Fernhill House and the surrounding gardens are visible. The subdivision layout has preserved these by incorporating landscaped view corridors as features of the development.

There is a view toward the Fernhill homestead house at the new entrance (see Figure 25.2). This has been preserved through retaining a gap between significant vegetation that allows a sight line toward the house. The lots located within this line have are significantly larger to allow for spaces between dwellings.

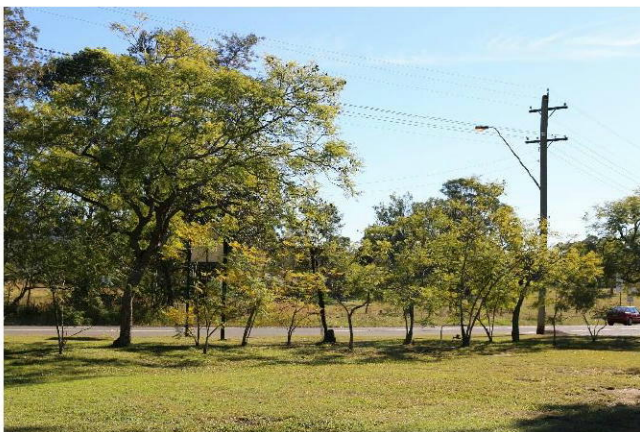


Figure 24.1 Mulgoa Road from Mulgoa Park



Figure 24.2 Mulgoa Road towards Mulgoa Village



The second corridor (see Figure 25.1) has been preserved through providing a corridor of meadow like open space corridor that breaks the subdivision into two parts. This space will not incorporate large trees. The impact of residential dwellings on the edge of the corridor will be mitigated through plantings and retention of existing trees to the western part of the site these trees define the corridor.

*"The view from Fernhill is a broad prospect across the Mulgoa Valley and takes in distant hills and extensive landscaped area. It does not focus on the eastern precinct, even though only a small section can be seen and a managed change to that precinct will not adversely affect Fernhill"* (Paul Davies Pty Ltd. EP Heritage Impact Statement 2014 p31).

In summary the proposed development will change the visual setting of the subject site.

- The landscape design that incorporates clusters of existing vegetation and informal landscape within the development footprint front setback will reduce visibility of future dwellings.
- The visual impact of the proposed development when viewed from Mulgoa Road will be mitigated through preserving the visual link to the school when entering the village from the north.
- Mulgoa Park's orientation does not relate to the subject site and is not impacted by the development.
- Views to Fernhill have been maintained through the design of subdivision layout.
- The heritage building within Mulgoa Primary School, which fronts Mulgoa Road is not impacted by the development and remains the edge to the village.

Impacts on the amenity of 9 Fairlight Road, have been mitigated through providing larger lots adjacent to the building to preserve landscape and increase the space between the existing house and future development.

The objectives of the Penrith LEP and DCP 2010 in relation to development within the Mulgoa Valley and Scenic land require the visual impact to be assessed. The key objectives preserve views when viewed from major roads, public places and heritage items.

The proposed development has responded to the aforementioned objectives. The overall impact of the development on the visual amenity within the locality and surrounding heritage items is minimal and should not prevent the development proceeding.

## 5.6 Social and Economic

According to the Elton Consulting Assessment of Social Issues (2014), the social benefits of the proposed subdivision are quite minimal as there is a minor increase in population:



Figure 25.1 Visual Corridor to Fernhill Estate



Figure 25.2 View to Fernhill Estate from Proposed Eastern Precinct Access Road

- 1) In addition to responding to the increasing demand for housing stock in Greater Western Sydney, the subdivision of the Eastern Precinct creates 50 opportunities to *"add to the housing diversity within the Penrith LGA"* (p31).
- 2) The subdivision is expected to result in a modest and manageable increase in population which is unlikely to represent an additional burden for existing social infrastructure. Elton Consulting's assessment states that *"the characteristics of new residents are likely to be broadly similar to those already living in the area"*, making *"adverse impacts to community cohesion or integration"* (p31) unlikely.
- 3) Lifestyle, natural environment and heritage values are to be protected through measures such as BioBanking and the placing of income or part thereof generated through the sale of the lots in the proposed subdivision into a trust account that will be utilised to facilitate the ongoing preservation of the State Heritage Listed Fernhill Estate. The preservation of these values will ensure that they will continue to be available to the local community.
- 4) The subdivision increases the economic viability of Mulgoa Village nominally, increasing patronage of existing commercial premises and facilities such as the local shops, schools and pre-school.
- 5) Consolidation of the Central Precinct will ensure the protection of heritage and conservation values within Fernhill Estate, benefitting the wider community.

Subdivision of the Eastern Precinct will provide a minor increase in population and will not have much impact on the social cohesion of the area.

## 5.7 Heritage

The proposed subdivision will not adversely impact Fernhill Estate or Heritage Items in the vicinity, including Mulgoa Public School.

The Eastern Precinct has been identified (Paul Davies Pty Ltd. EP Conservation Management Plan 2014, Figure 309) within the CMP as an appropriate technique to conserve Fernhill. The development footprint is part of

*....."several locations that are not directly affected by the heritage constraints of the original estate and where careful development could take place without impacting upon the heritage values of the core property."*

*"An important consideration is the ability to undertake some development on these more peripheral and less heritage sensitive areas of the estate rather than on the core heritage listed land..."* (Paul Davies Pty Ltd. Heritage Impact Statement 2014, p32).

The proposed development in the Eastern Precinct and its impact on other Heritage Items nearby was considered within the Heritage Impact Statement prepared by Paul Davies Pty Ltd. There is no impact on the church,

*"...which is visually separate from the Eastern Precinct and separated by dense Cumberland plain woodland as well as the re-aligned Mulgoa Road...."* (Paul Davies EP Heritage Impact Statement 2014, p32).

There is a minor impact on the school. The subdivision is located an open paddock. The setting back of built form from Mulgoa Road will preserve a landscape corridor towards the School from Mulgoa Road.

*"The addition of residential development on the north side of the school has no impact on the school itself and minimal impact on the former school residence building that is located closest to the north boundary."* (Paul Davies EP Heritage Impact Statement 2014, p32).



*There are no adverse impacts from this proposal on the St Thomas Church and "The Cottage" sites. While these sites share boundaries with Fernhill they are separate and not visually or directly connected to the areas that are proposed for sub-division. The combination of physical separation from the eastern precinct and the lack of visual connection through both topography and dense and protected tree growth between the sites means that there will be no potential for impacts (Paul Davies Pty Ltd. EP Heritage Impact Statement 2014, p33).*

The HIS concludes that proposed development will have no impact on the State Heritage Listed Curtilage of Fernhill or St Thomas Anglican Church and cemetery, and have a minor impact on the visual setting on the locally listed Mulgoa Primary School (which has been considered in the development footprint of the proposed development).

## 5.8 Ecology

GHD have prepared an ecological assessment which has been prepared pursuant to section 5A of the EP&A Act for the subdivision in proposed in the Eastern Precinct. The proposed development will have a minimal impact on local biota as detailed in the GHD assessment:

*"The proposal would result in the removal or modification of about 3.66ha of native vegetation within an overall subject site of 8.76ha... The majority of the disturbed, cleared land containing exotic pasture species or environmental weeds. These contain little native cover and have limited habitat value for native plants. Any vegetation clearing required in these areas would remove a small number of individuals of non-threatened native plants and noxious and environmental weeds... the proposal may result in positive impacts on retained native vegetation adjoining the subject site by reducing the weeds in the study area" (GHD EP Ecology Assessment 2014).*

*"The subject site is at the terminal end of a vegetated corridor... (And) will not directly isolate or fragment any areas of habitat... Fauna movement and ecological processes would occur around, rather than, through the subject site via the vegetated corridor to the North"*

Further to this, the proposal would result in some unavoidable residual adverse impacts upon some elements of the natural environment, including the removal of vegetation and imposition of edge effects on adjoining areas of vegetation, the following measures detail avoidance measures, mitigation measures and offset contributions recommended for the proposed development;

- Direct impacts have been avoided through a sixteen metre buffer between the watercourses adjacent to the proposal.
- Locating the majority of the development away from Cumberland Plain Woodland, which is west of the watercourses.
- Preservation of existing significant vegetation within the development footprint.
- Construction Environmental Management Plan
- Vegetation Management Plan
- A pre-clearance survey should be undertaken by a qualified ecologist, and the required methodology and targeted species should be developed as part of the Construction Environmental Management Plan.

In Summary;

- The proposed development will impact 3.66ha of native vegetation and habitat for threatened biota, which would affect a very small proportion of local populations and their habitat.

- The proposal is unlikely to have substantial indirect impacts on any habitats beyond the immediate footprint.
- The proposal will not isolate or fragment any significant areas of vegetation.

## 5.9 Bushfire

The Eastern Precinct is designated as Bushfire Prone Land, under the Penrith Local Government Area Bushfire Prone Land Map. It has been noted by GHD, in their Bushfire Assessment that the vegetation formations within the Eastern Precinct can support high intensity bushfires. Burning in forest formations and as a faster moving surface fire in open woodland communities without a shrubby understorey can be expected.

The subject land has been subject to high intensity bushfires in the past, such as the 2001 bushfires. A range of mitigation measures, have been proposed within the Bushfire Report (2014) which are to be incorporated in the development of the Eastern Precinct subdivisions.

These include:

- Asset Protection Zones illustrated in the Bushfire Report for the Eastern Precinct prepared by GHD. These comprise Inner Protection Areas (IPA) and Outer Protection Areas (OPA). The IPA will extend from the building line. It is contained within the residential allotments and will be maintained by the property owner. The OPA will extend from the IPA towards the hazard. The landholder of each individual lot is responsible for the OPA contained within the subject land.
- The maintenance of bushfire fuel within asset protection zones is important and this will be a responsibility of the owner of individual lots, as illustrated in Figure 26.
- A Perimeter fire trail will provide suitable access for fire management and suppression purposes. The fire trail is accessible from three points within the subdivision. The roads are at a width of 6m with a minimum trafficable width of 4m. Where the access from the public road meets the fire-trail, reversing bays are provided.
- The perimeter fire trail will provide a strategic control line around the hazard side of the APZ; Fire Suppression and management activities will be undertaken by combat and management agencies using the fire trail without obstruction from residential traffic.
- Reticulated town water will be utilised for firefighting.  
*"Fire hydrants are installed to comply with the Rural Fires Regulation, fire hydrant spacing, sizing and pressures (AS2419.1 – 2005). These hydrants are located outside parking areas"* (GHD EP Bushfire Assessment 2014, p10).
- There is additional access to Mulgoa Road from the existing driveway which will be utilised as an alternate exit in the event of a fire.
- There are four lots within each of the western and northern parts of the subject land that attract a BAL 29 rating for the indicative house sites with a number of other lots attracting a BAL 19 or 12.5 rating.

*The development including the bushfire protection measures outlined in Section 3 of this report is therefore appropriate for the issuance of development approval in accordance with Planning for Bushfire Protection (GHD EP Bushfire Assessment 2014, p15).*



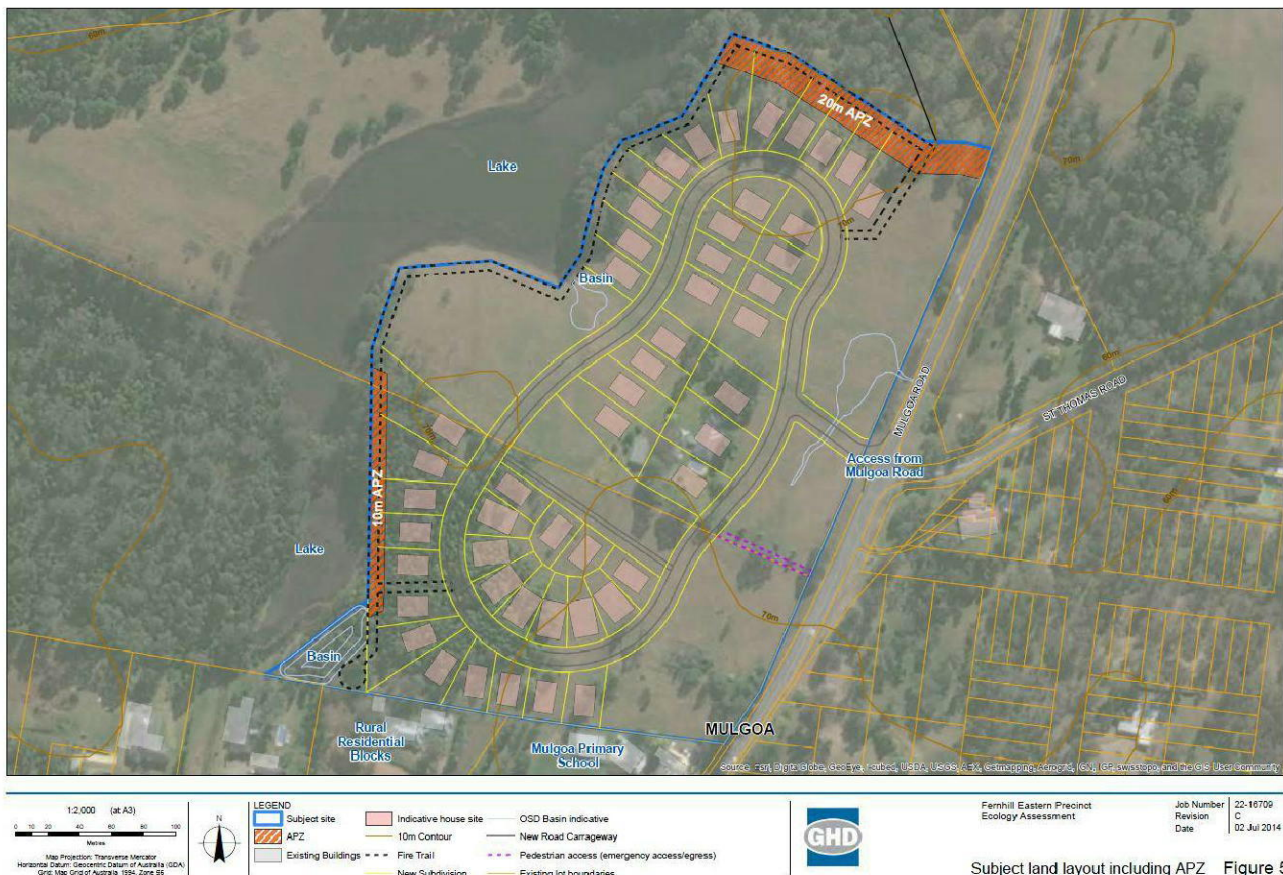


Figure 26 Subdivision Layout including APZ (GHD EP Bushfire Assessment 2014 p9)

Subject land layout including APZ Figure 5

## 5.10 Archaeology

Austral Pty Ltd undertook archaeological assessment of the Eastern Precinct and its findings can be seen in Figure 27. As is identified in the Figure 27, three archaeological sites are within the boundary of the Eastern Precinct, with a further 3 located on the opposite bank of the lake (i.e. within the consolidated Central Precinct).

The items located within the boundary of the Eastern Precinct are found in proximity to the lake, outside of the development footprint. This, in addition to their being within the riparian corridor that forms a vegetated buffer between the development and the natural watercourse, means that they will not be impacted by the development.

The assessed heritage items of significance of the sites identified within the development site were determined being low, following consultations with the registered aboriginal parties, no mitigation strategies were deemed necessary for the site.



In the case where earthworks for the installation of services, infrastructure and dwellings for the allotments impact on these archaeological sites, mitigation methods are proposed by Austral Archaeology. These methods include text excavations to clarify the archaeological potential, the undertaking of a Care and Control agreement for the repatriation of artefacts retrieved, the briefing of contractors on site and informing relevant stakeholders.

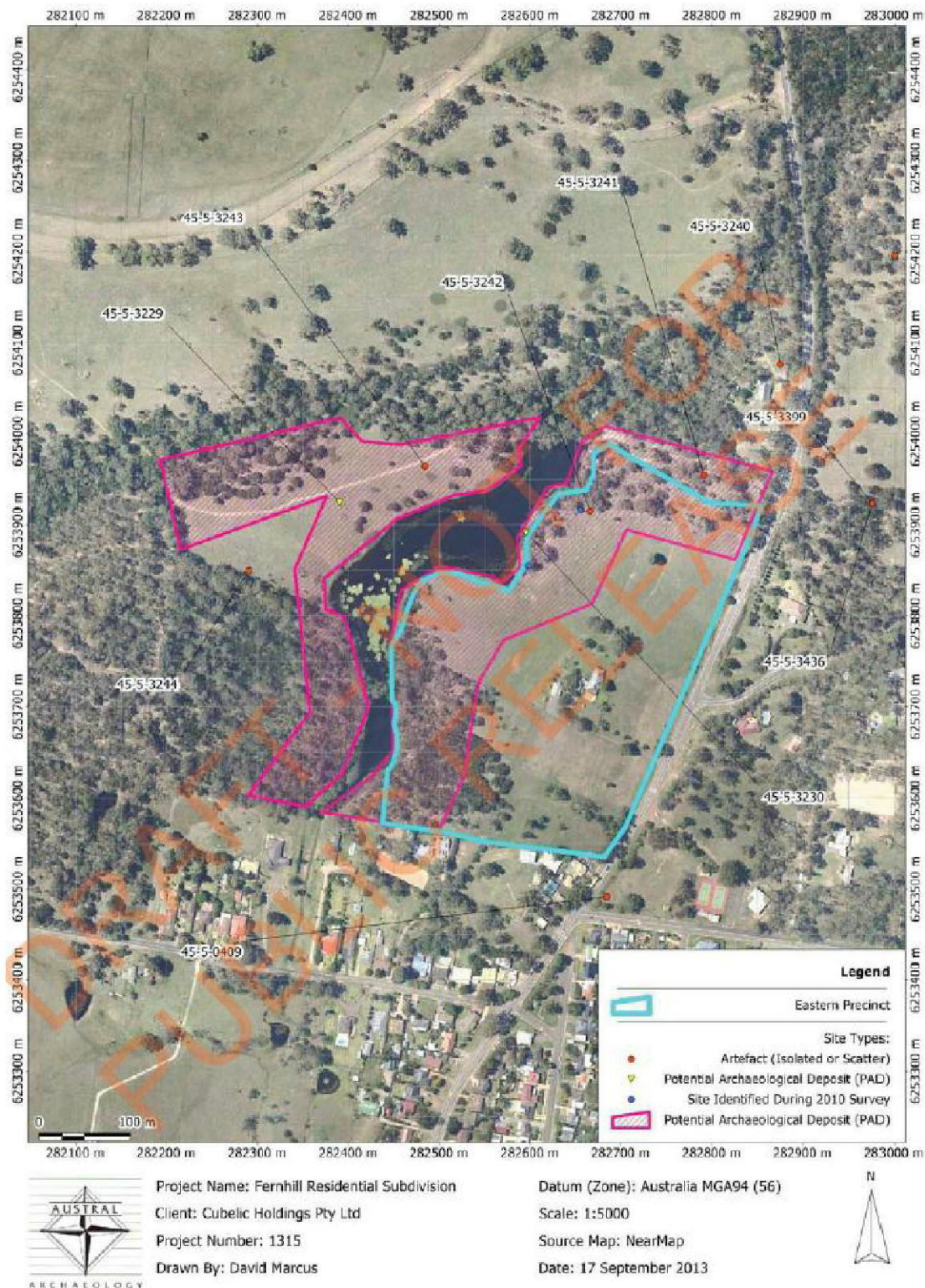


Figure 27 Artefacts and PADs located within the Eastern Precinct (Austral Pty Ltd. Aboriginal Cultural Heritage Assessment Report 2014. n21. Figure 2.9)



There is to be no impact on the slab hut, a structure that once formed part of the Woodlands property that has since been destroyed by bushfire (Australia Pty Ltd. Aboriginal Cultural Heritage Assessment Report 2013, p29). It is located outside of the development footprint.

## 5.11 Geotechnical

Douglas Partners (2014) has prepared a geotechnical assessment of the Eastern Precinct. The assessment has revealed that there is no evidence of hillside instability within the natural landforms on site, no constraining erosive soils, and no saline soils. Sodic soils were observed but will be managed through an appropriate on site drainage system to prevent dispersion and erosion. The assessment notes:

*"The results of the land capability assessment have not identified any issue that would preclude the rezoning of the Eastern Precinct for residential development"* (Douglas Partners EP Land Capability Assessment 2014, p21).

## 5.12 Contamination

A site investigation has been undertaken by Douglas Partners and forms part of the application. The report indicates that there was no level of contamination identified within the development site and the land is suitable for low-density residential development (Douglas Partners EP Detailed Site (Contamination) Investigation 2014).

The Detailed Site (Contamination) Investigation prepared by Douglas Partners indicated:

- No environmental issues that were identified in previous Douglas Partners, Desktop Study prepared in 2014
- Imported fill on the site was sampled and tested and no contaminants were found
- Sufficient data had been gathered to remove the previous agricultural uses on the site as potential source of contamination
- No hazardous building waste or asbestos was identified
- No contaminants were identified at levels that would impact on groundwater
- No (contamination) source pathways were identified.

The Detailed Site Investigation also sets out appropriate risk management:

- Unexpected finds protocol in the construction management plan for the civil works
- An appropriate fill importation protocol to be developed.

## 5.13 Traffic and Parking Assessment

The proposed subdivision is to be served by a single "consolidated two-way access road providing a direct connection to Mulgoa Road at the existing Mulgoa Road/St Thomas Road intersection" (Mott MacDonald EP Traffic Impact Assessment 2014, p37) and an internal road network that is to be dedicated to council. Expert assessment by Mott MacDonald has noted that:

- *"The total traffic generation for the Eastern Precinct development is estimated to be approximately 43 trips during weekday peak hours" and is "not anticipated to have any significant impact on the capacity or safe operation of the surround road network"* (p38)

- The access road's connection to Mulgoa Road at the Mulgoa Road/St Thomas Road intersection *"aligns with good network planning and principles"* (p37) in that *"adequate sight distances can be provided ... under the signposted 60km/hr signposted speed limit along this section of road"* (p17).
- The internal road layout has been designed around creating a low speed low volume traffic environment that supports its local rural residential function and aligns with the site terrain. The roadside landscape on the inner curve is kept low to ensure that site distances are not impacted when residents leave their driveways (Mott MacDonald EP Traffic Impact Assessment 2014, p17).
- *"the proposed internal road layout is considered adequate and aligns with its rural environment and local road characteristics"* (p18).
- The internal road layout ensures the safety of pedestrians and vehicles and their drivers by forcing vehicle volume and speed to remain low, in keeping with the rural residential character of the locality. Furthermore, its loop design allows service and refuge vehicles to enter and exit without having to execute a U-turn.
- The proposed Channelised (CHR) Right Turn treatment *"at the Mulgoa Road/St Thomas Road intersection is anticipated to improve intersection safety and result in operational benefits"* (p38) as it allows vehicles to slow and turn into the Eastern Precinct, via a 25m right turn bay. This further reduces the likelihood of rear-end shunts, of which there have been 2 at the Mulgoa Road/St Thomas Road intersection in the last 6 years. As a result, the efficiency of the intersection is maintained and its safety improved.

Based on these key findings and future modelling which predicts that all intersections will continue to perform satisfactorily under 2026 traffic conditions, *"it is evident that the proposed combined Fernhill Estate Precincts is not anticipated to have any significant impact on the surrounding road network"* (p36).

## 5.14 Stormwater Management and Water Sensitive Urban Design Strategy

The minor piped drainage system will be designed to control nuisance flooding and enable effective stormwater management for the site. In accordance with council standards, the minor system will be designed for a minimum 5 year ARI. This minor piped system will incorporate a pit and pipe system to collect surface flows from the internal roads and convey them to the nearest detention basin.

The civil plans prepared by Mott MacDonald illustrate the stormwater management proposed for the site. These form part of this application.

The Water Sensitive Urban Design (WSUD) strategy for the proposed development site includes:

- Gross Pollutant Traps, bio-retention swales and / or rain gardens within proposed detention basins and rainwater tanks.
- Water quality treatment devices suitably positioned to avoid aesthetic impacts on riparian corridors. GPT's will be positioned alongside roadways just upstream of detention basins for maintenance access.
- The major system (overland flow routes in and around structures, roadways, etc) designed to cater for 100 year ARI flows with overland flow paths directed to proposed detention basins shown on plan. The OSD philosophy is to ensure that the proposed development does not have any net increase in flows to the existing lake or to the existing culverts beneath Mulgoa Road, ensuring that there is no flood affectation.

The implementation of this WSUD strategy will prevent the Eastern Precinct from having any impact on water quality of the existing catchment or water quality up or down stream.



## 5.15 Infrastructure Services

An Infrastructure Report compiled by Mott MacDonald forms a part of this application. For the residential allotments in the Eastern Precinct, all necessary infrastructure will be provided. This is summarised as follows:

- Water: Fernhill Estate is not currently connected to the Mulgoa Village Water Supply, with water currently provided via on-site rainwater collection and dams. It is proposed that the existing Mulgoa Village Water Supply system will be extended to service the development via the main on Mulgoa Road and Fairlight Road intersection (Mott MacDonald EP Stormwater Management Report 2014, p5).
- Sewer: The site is also not currently connected to a mains sewer. It has been assessed by Sydney Water that the Eastern Precinct subdivision can be accommodated in the existing Mulgoa Wallacia Scheme. The sewage for each property will drain by gravity to a pumping station located on the site, and then be discharged to the Mulgoa sewage system via a rising main (Mott MacDonald EP Stormwater Management Report 2014, p5).
- Electricity - will be provided to the subject site from Endeavour Energy via overhead lines that currently exist along Mulgoa Road. The electricity infrastructure has the capacity to accommodate the proposed allotments via an underground cable (Mott MacDonald EP Stormwater Management Report 2014, p5).
- Telecommunications - The site currently has access to telecommunications services located on Mulgoa Road. This will be upgraded and extended to the proposed development (Mott MacDonald EP Stormwater Management Report 2014, p6).

There is no proposed gas infrastructure to service the allotments, as Mulgoa Village does not currently have gas available. The nearest gas services are located in Penrith at the corner of the M4 Motorway and Mulgoa Road. (Mott MacDonald EP Stormwater Management Report 2014, p6).

## 5.16 Conclusion

Development has been designed to conform with the surrounding character, context and mitigate the environmental factors on the site;

- Surrounding residential development and built form are low density on allotments between 750 and 1,770sqm.
- Significant vegetation within the Eastern Precinct will be retained and is separated by the existing lake and riparian corridor that forms a vegetated buffer that will retain the landscape character of the site and outlook to the Blue Mountains.
- Setting back development 65 to 95m from Mulgoa Road that incorporates an open landscape retains the existing rural character at the Northern entrance to Mulgoa Village.
- State Significant Heritage Items, St Thomas Church and Fernhill are not negatively impacted by the subdivision. Open space within the subdivision provides a view towards Fernhill that can be accessed by the public.
- Mulgoa Primary School's Village setting has been considered in the siting of the proposed allotments.
- The landscape design of the proposal will provide a positive sense of place and wellbeing for new and existing residents with 2.5ha of open space being publicly accessible, retaining the character associated with Mulgoa Valley and improving access to the visual setting of Fernhill.
- Fragmentation and isolation of biota has been avoided, through the incorporation of all proposed development east of the existing dam.
- Bushfire prone land impacts the site. Fire-trail and additional emergency access lane to Mulgoa Road as well as provisions for approximate asset protection zones have been incorporated to mitigate bushfire impacts.

- There are no contamination or geotechnical concerns that affect the proposed development and the land is suitable for residential development.
- Neither the slab hut nor any items of Aboriginal cultural significance are to be affected. Impacts on two items of archaeological significance are mitigated through strategies mentioned in section 5.10 of this SEE.
- Efficiency of local traffic networks will not be adversely impacted by 50 additional households. The safety of Mulgoa Road is improved through the provision of a Channelised (CHR) Right Turn at the Mulgoa/St Thomas Road intersection.
- Water Sensitive Urban Design principles have been utilised to manage the stormwater and not negatively impact local catchments or negatively contribute to flooding.
- Sufficient infrastructure is available to service 50 additional allotments.



## 6.0 Environmental Planning Assessment

### 6.1 Overview

The proposed residential subdivision development will be assessed under part 4 of the Environmental Planning and Assessment Act (1979), through the Penrith City Council Local Environment Plan of 2010. The following compatibility table assesses the permissibility of the proposed development within Fernhill.

Penrith Local Environment Plan 2010: Compatibility Table

CLAUSE		CONTROL	PROPOSED	COMPLIES
2.1	Land Use Zones	Eastern Precinct zoned: E3, Environmental Management	Detached Dwellings	YES
4.1	Principal Development Standards	Eastern Precinct Minimum Lot size: 20ha	minimum allotment size of 900m <sup>2</sup> and average of 1,770m <sup>2</sup>	NO  Minimum allotment size 'AB2' 20ha,  The application is made under 5.10.10 of PLEP 2010.

### 6.2 State Environmental Planning Policies

*State Environmental Planning Policy No 19, Bushland in Urban Areas.*

The SEPP applies to the Eastern Precinct. The proposed development is consistent with the aims and objectives of this policy;

- The proposed development does not result in any loss of corridors or links from remnant vegetation to significant ecological communities (GHD EP Ecology Assessment 2014).

*State Environmental Planning Policy (SEPP) Infrastructure (2007).*

The proposed development is not impacted by this SEPP as Mulgoa Road doesn't reach the volume of traffic described on Map 13 of the RTA Traffic Volume Maps for Road Noise Assessment (November 2008).

*State Environmental Planning Policy (SEPP) 55 Remediation.*

A Detailed Site Investigation has been prepared for the portion of the Eastern Precinct. This report has indicated that the development is suitable for low density residential development and there is no indication of contaminants on site (Douglas Partners EP Detailed Site (Contamination) Investigation 2014).

*Sydney Regional Environmental Plan 20, Hawkesbury Nepean River.*

- The proposed development will not impact on the catchment of Hawkesbury- Nepean River. The proposed development has been designed to mitigate the impact on water quality through the implementation of Water Sensitive Urban Design, which has been discussed in detail in part 5.12 of this report.
- Erosion and sediment control will be managed during construction. Stormwater runoff will be managed through gross water pollutant traps post completion.
- All sewage will be connected to Mulgoa Town System and will not impact on the water quality of the catchment.

## 6.3 Penrith Local Environmental Plan

This section of the Statement of Environmental Effects assesses the proposed development against the applicable controls and objectives of the Penrith Local Environment Plan. The application is made under clause 5.10 (10) of the PLEP 2010.

### 6.3.1 Aims of Penrith Local Environmental Plan 2010

The proposal is consistent with aims of the LEP

<i>AIMS</i>	<i>COMMENTS</i>
To promote development that is consistent with the council's vision for Penrith, namely, one of a sustainable and prosperous region with harmony and urban and rural qualities with a strong commitment to environmental protection and enhancement.	<p>The development is on the periphery of the estate and is moderate in scale and responds to the context of the development footprint.</p> <p>The development footprint is in an area that will have minimal impact on local biota and ecological communities and enables the preservation of important habitats to the west and north of the subject area in perpetuity.</p>
To ensure development incorporates the principles of sustainable development through the delivery of balanced social, economic and environmental outcomes.	<p>Will lead to a small and manageable increase in residents that will not impact on established rural lifestyle and living qualities of Mulgoa Village (Elton Consulting EP Assessment of Social Issues 2014).</p> <p>Refer to earlier comment in relation to the development footprint of the proposed subdivision.</p>
To encourage development to be designed in a way that assists in reducing and adapting to the likely impacts of climate change.	<p>Will not incorporate any built-form, however the consolidation of land within the Eastern Precinct will preserve important ecology.</p> <p>The approval of the proposed dwellings within the Eastern Precinct will be subject to BASIX requirements and separate applications.</p>
To protect the environmental values and heritage of Penrith, including places of historic, aesthetic, architectural, natural, cultural, visual, and aboriginal significance.	Fernhill Estate is State Heritage Listed Item and an important asset for the community within the Penrith LGA. The proposed Development Application will enable the necessary funds to be



	<p>generated to fund the conservation of the core estate and buildings of Fernhill Estate</p> <p>The Development Application is informed by Conservation Management Plan policies 108-111.</p> <p>The proposed development will not detract from State Heritage Items St Thomas Church or Fernhill Estate as addressed in part 5.3 of this report.</p> <p>Environmental values are maintained by</p> <ul style="list-style-type: none"> <li>• retaining the dam and native vegetation west and north of the footprint in the Eastern Precinct, implementing WSUD and</li> <li>• protection of riparian corridors and retention of exiting ecology.</li> </ul>
To provide for an urban environment that is active, attractive, and safe for residents and visitors.	Proposed dwelling will address the street and will overlook open space.
To foster viable employment, transport, education, and future investment opportunities that are suitable to the needs and skills of the residents and the workforce.	<p>Will add to a limited extent and patronage to underutilised social infrastructure such as Mulgoa Primary School, and support Mulgoa Village businesses and services (Elton Consulting EP Assessment of Social Issues 2014).</p> <p>There will be a minor increase in construction jobs during the construction of the proposed development.</p>
To protect views and vistas from main roads and other vantage points	<p>A portion of the Eastern Precinct does not impact on any significant views, retaining the rural transition to the Village from the north and providing a visual link to the historic house through the creation of a village green, providing a visual link from the new subdivision to the house.</p> <p>The analysis of views and vistas within the CMP prepared by Paul Davies Pty Ltd, identifies that traditional views and vistas have been lost because of the regrowth of woodland within the site and dense tree cover along the verge of Mulgoa Road that now obstructs significant views.</p>
To reinforce Penrith's urban growth limits by allowing rural living opportunities where they will promote the intrinsic rural values and functions of Penrith's rural lands and the social wellbeing of its rural communities	Subdivision of the Eastern Precinct will provide 50 dwellings to the north of Mulgoa Village, and provide a transition to Fernhill Heritage Estate to the west, and larger rural lots to the north.

## 6.3.2 Zone Objectives of E3

The proposed subdivision has been assessed under the clauses and objectives of Environmental Management (E3);

<i>ZONE OBJECTIVE</i>	<i>COMMENT</i>
To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.	<p>The development is located on the periphery of the estate and is moderate in scale, which responds to the context of the locality and constraint within the footprint.</p> <p>Will provide a financial contribution to the trust account required to sustain Fernhill in accordance with CMP.</p> <p>Development has been located in area that will have minimal impact on local biota and ecological communities and enables the preservation of important habitats to the west and north of the subject area in perpetuity.</p>
To provide for a limited range of development that does not have an adverse effect on those values.	<p>The development footprint is approximately 8.37ha, a small proportion of the entire estate. The CMP identifies the subject site as having no impact on the heritage value of Fernhill (Paul Davies Pty Ltd. Heritage Impact Statement 2014) and having minimal environmental impacts (GHD EP Ecology Assessment 2014).</p>
To minimise conflict between land uses within the zone and land uses within adjoining zones.	<p>The portion of the Eastern Precinct proposed for residential development is contained within an E3 zone.</p> <p>There will be minimal land use conflict as a result of the proposed subdivision within the Eastern Precinct by</p> <ul style="list-style-type: none"> <li>• positioning of building pads away from the adjoining existing rural residential properties at the southern edge of the proposed subdivision</li> <li>• ensuring open space is located adjacent to the heritage listed school building.</li> </ul>
To ensure development is compatible with the environmental capabilities of the land and does not unreasonably increase the demand for public services or public facilities.	<p>The subdivision pattern is consistent with the low density detached dwellings in the RU5 Zone to the south and will not significantly increase demand for public services or facilities (Elton EP Consulting Assessment of Social Issues 2014).</p>



To preserve and improve natural resources through appropriate land management practices.	<p>The natural resource sensitive land on the Northern broader of the Eastern Precinct will not be impacted by building footprints and will be retained through a riparian corridor to Littlefields Creek.</p> <p>This vegetation has been incorporated within the BioBanking agreement (112, 117) which is now protected in perpetuity.</p>
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### 6.3.3 Penrith Local Environment Plan, 5.10 Heritage Conservation

The following table provides discussion on how the proposal addresses clauses specific to heritage conservation within the PLEP 2010. This proposal is utilising clause 5.10 (10) of the PLEP to enable the subdivision of allotments that are from 750 to 1,770sqm within an E3 land-use zone area with a minimum lot size of 20 hectares.

#### Clause 5.10 (1)

<i>OBJECTIVES</i>	<i>COMMENTS</i>
a) To conserve the environmental heritage of Penrith	<p><i>The proposal is predicated on conserving Fernhill and its estate. Fernhill is one of the major Heritage Items within the Penrith local government area. It achieves this by proposing appropriate uses for the site and a management system to allow them to take place without adverse impacts and it retains the core estate holding with additional setting on a consolidated parcel of land.</i></p> <p><i>The proposal achieves the objective of this clause. (Paul Davies Pty Ltd. EP Heritage Impact Statement 2014, p31)</i></p>
b) To conserve the heritage significance of Heritage Items and conservation areas, including associated fabric, settings and views,	<p><i>The proposal conserves the environmental significance of the place.</i></p> <p><i>The fabric of the buildings and site is conserved and maintained, this is set out in various schedules of work and has already been demonstrated by the works undertaken over the last 18 months to stabilise and repair the place. This extends to the core site and extended setting which is also set out in detail in the work schedules.</i></p> <p><i>Significant views have also been carefully considered and are to be retained and where feasible recovered as part of the longer term works program for the site. (Paul Davies Pty Ltd. EP Heritage Impact Statement 2014, p32).</i></p>
c) To conserve archaeological sites.	<p><i>There are no works within the proposed consolidated estate that affect any known archaeological site.</i></p>

	<i>Some archaeological investigation may be required in the Eastern Precinct for the former slab hut site and Aboriginal archaeological sites. It is noted that the slab hut site is within the paddock area fronting Mulgoa Road and is not proposed to be disturbed (Paul Davies Pty Ltd. EP Heritage Impact Statement 2014, p32).</i>
d) to conserve aboriginal objects and places of aboriginal significance.	Refer to comment above

#### Clause 5.10 (4)

<i>CONTROL</i>	<i>COMMENT</i>
The consent authority must, before granting consent under this clause in respect of a Heritage Item or heritage conservation item, consider the effect of the proposed development on the heritage significance of the area concerned. This subclause applies regardless of whether a heritage management document is prepared under sub clause (5) or a heritage conservation management plan is submitted is submitted under subclause (6).	<i>The Development Application and section 60 application process provide for both Penrith City Council and the Heritage Council to consider any effects of development on the heritage values of the place (Paul Davies Pty Ltd. Heritage Impact Statement 2014, p33).</i>

#### Clause 5.10 (5) & (6)

<i>CONTROL</i>	<i>COMMENT</i>
Heritage Assessment  The consent authority may, before granting consent to any development:  (a) on land on which a Heritage Item is located, or  (b) on land that is within a heritage conservation area, or  (c) on land that is within the vicinity of land referred to in paragraph (a) or (b),  require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the Heritage Item or heritage conservation area concerned.	<i>A CMP has been prepared and is provided with the application along with this HIS and schedules of works.  The CMP is submitted for endorsement and the documents satisfy the LEP requirement.  The CMP has undergone a rigorous and detailed review process (Paul Davies Pty Ltd. EP Heritage Impact Statement 2014, p33)</i>
Heritage Conservation Management Plans  The consent authority may require, after considering the heritage significance of a Heritage Item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.	<i>The CMP is submitted for endorsement to the Office of the Environment and Heritage, the documents satisfy the LEP requirement. (Paul Davies, Pty Ltd. EP Heritage Impact Statement 2014)</i>

#### Clause 5.20 (7) Archaeological Sites



<i>CONTROL</i>	<i>COMMENT</i>
The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order under the Heritage Act 1977 applies:	
a) Notify the Heritage Council of its intention to grant consent, and	An archaeological report is submitted with this application that addresses the requirements of this clause and the Act.
b) Take into consideration any response received from the Heritage Council within 28 days after the notice is sent.	An archaeological report is submitted with this application that addresses the requirements of this clause and the Act.

Clause 5.10 (8) Aboriginal Places of heritage significance

<i>CONTROL</i>	<i>COMMENT</i>
The consent authority must, before granting consent under this clause to the carrying out of development in an aboriginal place of heritage significance:	
a) Consider the effect if the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement)	<p><i>There are no works within the proposed consolidated estate that affect any known archaeological site.</i></p> <p><i>Aboriginal archaeological sites in the Western Precinct have been identified and remain within regrowth areas that are not subject to the sub-division proposal.</i></p> <p><i>Some archaeological investigation may be required in the Eastern Precinct for the former slab hut site and Aboriginal archaeological sites. It is noted that the slab hut site is within the paddock area fronting Mulgoa Road and is not proposed to be disturbed (Paul Davies Pty Ltd. Heritage Impact Statement 2014, p32).</i></p>
b) Notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.	<i>An archaeological report is submitted with this application that addresses the requirements of this clause and the Act (Paul Davies Pty Ltd. Conservation Management Plan 2014, p32).</i>

Clause 5.10 (10) Conservation Incentives

<i>CONTROL</i>	<i>COMMENT</i>
The consent authority may grant consent to development for any purpose of a building that is a Heritage Item or the land on which such a building is erected on, or any purposes on an Aboriginal place of Heritage Significance, even though development	<i>The DA is submitted on the basis that this clause applies to the site. The proposal seeks Councils' consent to vary several development standards to achieve the conservation of Fernhill. It is being argued that without the use of this clause Fernhill is unlikely to survive as an intact historic estate and that</i>

for that purposes would otherwise not be allowed by this Plan, if the consent authority is satisfied that:

*this loss would be a major heritage loss within Penrith.*

*Counter arguments have been made that Fernhill is well protected by the current controls over the site and that any development will have an adverse impact on the heritage values of Fernhill and the Valley, but this is not the case.*

*There is extensive precedent for the break-up of heritage estates that cannot be maintained and for which no viable use can be found. Usually such a break-up is addressed outside Council and there are many properties of equal significance to Fernhill that have been subject to intensive development retaining only relatively small areas around the original house.*

*This proposal is a moderate, well thought out and responsive one that has considered the various objections and submissions made, has been discussed and negotiated at length with Penrith Council to mitigate perceived impacts and to address community concerns and delivers a very significant heritage outcome for the estate.*

*The idealistic notion that Fernhill can remain as a folly without any development or additional uses is a flawed idea. Even apart from conservation and maintenance of the heritage aspects of the place (which is provided for in this proposal) the cost of maintaining and operating the property is high and without the ability to produce income that both sustains the estate and makes a profit, there will be pressure for break-up or uses that may not be appropriate.*

*The owners and receivers, contrary to many of the critical claims made in response to the last application, have taken the heritage values and the retention of the estate as an entity seriously and the proposal that is now submitted is appropriate for the site, facilitates conservation and fits without any doubt within the intent of clause 5.10.10.*

*Reference to past applications reinforces the small scale of this proposal as it is significantly less than has previously been put forward for the site (in both the recent application and the much greater development proposals put forward by the Andersons when they owned the property). Comparison with earlier proposals does not in itself justify this proposal, but it provides a reference point*



	<p><i>to allow a determination of what is an appropriate level of development.</i></p> <p><i>It is also important that all of the sub-division proposals are outside the State heritage listed site.</i></p> <p><i>The other factors to support the use of the clause are:</i></p> <ul style="list-style-type: none"> <li>- <i>the consolidation of the remaining Fernhill land into one lot</i></li> <li>- <i>the proposal to establish a voluntary planning agreement to provide for the future conservation and maintenance of the Fernhill estate with an estimated annual expenditure of approximately \$300,000 and an offer of \$3 million dollars to be established in a Trust Fund</i></li> <li>- <i>establishment of a maintenance regime that is linked to the heritage agreement</i></li> </ul> <p><i>The matters to be considered in detail are as follows: (Paul Davies Pty Ltd. EP Heritage Impact Statement 2014, p33)</i></p>
a) The conservation of the Heritage Item or Aboriginal place of heritage significance is facilitated by the granting of consent, and	Please refer to comments above
b) The proposed development is in accordance with a heritage management document that has been approved by the consent authority, and	<p><i>The CMP has been submitted for endorsement by the Heritage Council. The CMP also forms part of the IDA submission and presumably will be considered by Penrith City Council as part of the overall project.</i></p> <p><i>It is noted that the current CMP has been extended and edited in response to feedback from both Council and the Heritage Council to specifically address in more detail some of the landscape issues and the view issues. (Paul Davies Pty Ltd EP Heritage Impact Statement 2014, p33)</i></p>
c) The consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and	This is provided in the schedules within the Conservation Management Plan that has been submitted as part of this application.
d) the proposed development would not adversely affect the heritage significance of the Heritage Item, including its setting, or the heritage significance of the Aboriginal place of heritage significance,	<p><i>In this case the Heritage Item is Fernhill, even though some of the land to be developed is outside the state heritage listed land.</i></p> <p><i>With regard to the Eastern Precinct, as this is heritage listed in relation to Fernhill it is the potential impact on Fernhill that needs to be considered rather than impact on just the land proposed for sub-division.</i></p>

	<p><i>The exception to this is the site of the former slab cottage, which should be investigated prior to works taking place.</i></p> <p><i>This proposal also responds to the CMP, which requires the key landscape areas of the site to be maintained in an open park-like form and looks to locate any future elements outside the key areas of the estate.</i></p> <p><i>With regard to the Eastern Precinct lands, in addition to considerations about impacts on Fernhill from development, as the land is locally heritage listed (even though it is specifically listed in relation to Fernhill) there needs to be consideration of impacts that may occur to the land itself.</i></p> <p><i>Apart from the site of the former slab cottage (considered above) the Planning Controls that cover the site within the LEP are the appropriate level of control for new works. The offer to prepare a site specific DCP extends this level of control to assist in fitting development into the setting. The Penrith DCP provides guidance on any aspects of rural development, the proposed DCP controls will go further. Matters to be addressed include:</i></p> <ul style="list-style-type: none"> <li>- <i>siting of buildings</i></li> <li>- <i>orientation of buildings</i></li> <li>- <i>single and double storey forms and their suitable locations</i></li> <li>- <i>building and roof forms</i></li> <li>- <i>specific set backs</i></li> <li>- <i>fence requirements</i></li> <li>- <i>landscape requirements</i></li> <li>- <i>materials that are suitable</i></li> <li>- <i>colour palettes</i></li> <li>- <i>location of garaging and carports</i></li> <li>- <i>road construction that is suitable for the setting</i></li> <li>- <i>public domain works</i></li> <li>- <i>management of infrastructure (Paul Davies Pty Ltd Conservation Management 2014, p34)</i></li> </ul>
e) The proposed development would not have any significant adverse impact on the amenity of the surrounding area.	<p><i>Fernhill is a very large estate that is capable of a range of uses and developments without undue impacts on neighbours.</i></p> <p><i>The sub-division proposal is modest in relation to the size of the Fernhill site and carefully designed to</i></p>



	<p><i>reduce or remove potential impacts on adjacent lands.</i></p> <p><i>While this is dealt with in more detail in planning assessments there are two adjoining boundaries to existing development that need to be considered. The proposals are designed to be consistent with those developments in scale, lot size etc. and have included building footprints and setbacks to ensure a good contextual fit of future development.</i></p> <p><i>There appear to be no adverse amenity impacts on neighbours however, that does not mean there will not be some change in the setting as the proposal involves sub-division of land that is presently not developed. (Paul Davies Pty Ltd Conservation Management Plan 2014, p35)</i></p>
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#### 6.3.4 Clause 6.4 Development on natural sensitive land of PLEP 2010

The Eastern Precinct is bordered to the north by Littlefield's Creek, which is a tributary of the Hawkesbury Nepean Catchment. The development footprint of the proposed subdivision is outside land identified within the PLEP 2010 as land shown as Development on natural resources sensitive land.

There is no proposed development associated with this application associated within the land identified Development on natural sensitive land within the PLEP 2010.

#### 6.3.5 Clause 6.5 Scenic and Landscape Values Map

The portion of the Eastern Precinct that is being developed is identified as having Scenic and Landscape Values in the PLEP 2010. The footprint of the subdivision layout has responded to the visual character of the area and broader landscape.

<i>OBJECTIVES</i>	<i>COMMENTS</i>
(a) to identify areas that have particular scenic Value either from major roads, identified Heritage Items or other public places,	The area proposed for subdivision is identified as having scenic and landscape value within the PLEP 2010.
(b) to ensure development in these areas is located and designed to minimise its visual impact.	The setback from Mulgoa Road, which retains the parkland setting and provides open space that retains a scenic view towards Fernhill House and Grounds.
2. This clause applies to land identified as "Land with scenic and landscape values" on the Scenic and Landscape Values Map.	The development footprint of the site is identified as land with scenic and landscape values and land with vistas of Heritage Items.

<p>3. Development consent must not be granted for any development on land to which this clause applies unless the consent authority is satisfied that measures will be taken, including in relation to the location and design of the proposed development, to minimise the visual impact of the development from major roads, identified Heritage Items and other public places.</p>	<p>The scenic value of the land has been considered in the setting of the allotment layout.</p> <p>A setback from Mulgoa Road to the development which has open space preserves a view from Mulgoa Road to Mulgoa Primary School.</p> <p>The majority of development has been positioned to be not visible from Mulgoa Road.</p> <p>The proposed development will not impact St Thomas Church a State heritage listed item (Paul Davies Pty Ltd. Heritage Impact Statement 2014, p30).</p> <p>There is a minor impact on the school, <i>"the addition of residential development on the north side of the school itself and minimal impact on the former residence building that is located to the north boundary. This change noted will be a change in the visual setting of the school as there is development proposed for the rear of the adjacent school land"</i> (Paul Davies Pty Ltd Conservation Management Plan 2014, p30)</p>
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### 6.3.6 Clause 6.6 Servicing

This clause applies to development made under the PLEP 2010 and the availability of services. The proposed subdivision has services available to accommodate residential development. The following controls of this clause are addressed in the compatibility table below;

<i>CONTROLS</i>	<i>COMMENTS</i>
1) The objective of this clause is to ensure that development of land to which this Plan applies reflects the availability of services.	Potable water, sewage, power and telecommunications is available (Mott MacDonald EP Infrastructure Report 2014). These services will be incorporated within the works associated with the subdivision.
1) Before granting development consent for development on any land to which this Plan applies, the consent authority must be satisfied that:	
2. This clause applies to land identified as "Land with scenic and landscape values" on the Scenic and Landscape Values Map.	



a) the development will be connected to a reticulated water supply, if required by the consent authority, and	Will be connected to existing potable water from a 100mm main at Mulgoa Road Fairlight Road intersection to each allotment within the subdivision.
b) the development will have adequate facilities for the removal and disposal of sewage, and	Sewage for each property will drain by gravity to a pumping station located on the Western edge of the site, and will discharged to the Mulgoa sewage system via a rising main.
c) if the development is for seniors housing, the development can be connected to a reticulated sewerage system, and	N/A
d) the need for public amenities or public services has been or will be met.	Amenities within Mulgoa Village are located 500m south of the proposed development.

### 6.3.7 Clause 6.9 Mulgoa Valley

The proposed development is within the Mulgoa Valley as identified in the Clause Identification Map within the PLEP 2010. The objectives and controls of this clause have been addressed within the compatibility table below;

<i>OBJECTIVES</i>	<i>COMMENTS</i>
I (a) to establish specific planning controls for land in the Mulgoa Valley (the valley),	The subject land is within Mulgoa Valley.
I (b) to protect and enhance the rural landscape of the valley, including its agricultural qualities, cultural heritage values and the setting of the Villages of Mulgoa and Wallacia,	<p>The proposed development footprint is only a small portion of the Fernhill Land holdings on the periphery of the estate that is not impacted by the heritage constraints of Fernhill.</p> <p>Residual land within the subdivision will be consolidated within Fernhill. Further protecting the core estate and buildings.</p> <p>The proposed development will not impact on the setting of Mulgoa. The allotments within the proposed subdivision are setback 65m to 90m from Mulgoa Road to preserve the rural landscape at the Northern entrance to Mulgoa Road.</p>
I (c) to ensure development in the valley (including rural living opportunities) protects and utilises its tourism and recreational potential and is consistent with conserving its rural and natural landscape, heritage and agricultural qualities,	<p>The proposed development footprint incorporates 2.5ha of open space that has recreational potential.</p> <p>The open space contributes to the preservation of the rural and landscape quality of the subject site.</p>

I (d) to ensure traffic generating development is suitably located so as not to adversely affect the safety, efficiency and rural character of roads, particularly Mulgoa Road.	Mulgoa Road with additional traffic from the 50 allotments will be well under the notional capacity for a sub arterial road, and within its capacity (Mott MacDonald EP Traffic Impact Assessment 2014).
(3) Before granting development consent for any purpose on land to which this clause applies, the consent authority must be satisfied of the following:  (a) that any proposed building will not be located on a ridge top and will not intrude into the skyline when viewed from a road or other public place,	Buildings will be part of a separate application.  Residential allotments and pads are located to minimise impact on views when entering or leaving the Village, through setting back development 65-90m from Mulgoa Road.
(b) that the proposed development will not adversely affect the historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of any Heritage Item in the valley,	The proposed Development Application is made under clause 5, 10 (10).  Income, or part thereof, will contribute to the ongoing preservation of Fernhill, which is an important Heritage Item in Penrith City Council and  <i>"...without the use of this clause Fernhill is unlikely to survive as an intact historic estate and that this loss would be a major heritage loss within the Penrith Area (Paul Davies Pty Ltd. EP Heritage Impact Statement 2014, p34)."</i>  The proposed development is located on the periphery of the estate.
(c) that the proposed form and siting of buildings, colours, landscaping and building materials are appropriate for the rural character of the valley,	The siting of the proposed building pads has considered existing significant vegetation and landscape within the development footprint. Future dwellings are set back at least 65-95m from Mulgoa Road to preserve the rural character at the Northern entrance to the Village to Mulgoa.  Any future dwellings are subject to separate Development Applications and will comply with site specific controls.
(d) that the proposed development will not detract from the "Vistas of Heritage Items" specified on the Scenic and Landscape Values Map,	
(e) that extensive areas of vegetation will not be cleared for the proposed development	In the Eastern Precinct, existing native ecological communities will be retained where possible. Only a small portion of moderate vegetation will be removed 3.66ha. The site is predominantly in cleared exotic grassland (GHD EP Ecology Assessment 2014.)



(f) that adequate provision has been made for the landscaping of the land to which the development relates and about whether any trees or other vegetation on the land should be preserved,	2.5ha of open space is incorporated within the development footprint, which retains existing vegetation. As illustrated in Figure 15.
(g) that the agricultural viability of holdings and potential of the land will not be adversely affected,	The impact on the agricultural viability of holdings and potential of the land will be minimal. As subdivision will only occupy a small portion of the estate.
(h) that Aboriginal and non-Aboriginal cultural heritage resources on the land will not be adversely affected,	<i>Some archaeological investigation may be required in the Eastern Precinct for the former slab hut site and Aboriginal archaeological sites. It is noted that the slab hut site is within the paddock area fronting Mulgoa Road and is not proposed to be disturbed</i> (Paul Davies Pty Ltd. EP Heritage Impact Statement 2014, p32).
(i) that the view from Mulgoa Road and the rural setting of the Villages of Mulgoa and Wallacia will not be adversely affected,	The view from Mulgoa Road and the rural setting of Mulgoa will not be adversely affected as a result of the proposed subdivision. The residential development maintains a 65-90 m landscape buffer.
(k) that any upgrading required to maintain safety and efficiency will not detract from the present rural character of Mulgoa Road.	The proposed development...  “...is not anticipated to have any adverse traffic impact on the adjacent road network” (Mott MacDonald EP Traffic Impact Assessment 2014, p36) based on the traffic modelling and traffic surveys undertaken as part of the traffic report.

## 6.4 Draft Metropolitan Plan for Sydney

The proposed development has been considered pursuant to relevant to the draft Metropolitan Plan for Sydney 2031 a compatibility table is provided below which comments on applicable policies;

CLAUSE	OBJECTIVE	COMMENT
1.a	More greenfield and urban renewal areas will be made available to support the balance growth of Sydney.	The subdivision of the vacant and un-developed Eastern Precinct will nominally support growth of Sydney in providing housing opportunities adjacent to the established Mulgoa Village.
2.a	Plan for housing growth in centres of all sizes	The provision of 50 additional houses will accommodate for growth of the Mulgoa Village. Particularly with the confirmation that Sydney's second Airport will be at Badgerys Creek 10 km away
5.a	Additional homes by 2031, with minimum housing targets for each subregion	Delivery of 50 homes will contribute to the Western sub-regional target of 16,000 new homes by 2021, and 39,000 new homes by 2031.
10.e	Fifty percent of new jobs will be in Western Sydney by 2031.	The proposed subdivision is located within ten kilometres from Sydney's Second Airport and Western Sydney Employment Lands. This will provide housing opportunities for people who will work at those locations.
19.a	Natural hazards will be considered and planned for at an early stage.	The design of the Eastern Precinct has addressed the potential for a 100 year flood, refer to section 5.12 of this report.
23.b	Fragmentation of habitat will be avoided green corridors will connect habitats	Existing vegetated corridors are maintained and enhanced through locating the development footprint west of the dam.  The Eastern Precinct subdivision is predominantly located in cleared areas with the existing dam and riparian corridors to the north and west retained, thereby not causing any fragmentation or isolation of habitat.



## 6.5 Draft North West Strategy

The Draft North West Subregional Strategy forms part of this Draft Metropolitan Strategy for Sydney 2031. In this strategic document Mulgoa has been identified as a Village. The proposed development has been considered within a compatibility table pursuant to applicable policies;

<i>CLAUSE</i>	<i>OBJECTIVE</i>	<i>COMMENT</i>
E2. 2	Protect Sydney's unique diversity of plants and animals	The Eastern Precinct residential subdivision was identified for its minimal impacts on existing ecology, with the subdivision footprint located in areas already cleared of significant vegetation or dominated by exotic grassland and the conservation of the existing dam and riparian corridors (GHD Ecology Assessment 2014).
E3.2	Achieve sustainable use of water.	Ecologically sustainable water management will be achieved through mitigating impacts on existing water sources within the Eastern Precinct.
E6. 1	Provide consistent approach to identify and protect Sydney's cultural heritage	The income, or a part thereof, generated through the sale of the allotments within the development will facilitate the long-term conservation and maintenance of the State significant Heritage Item.
E6. 2	Recognise where Sydney's cultural heritage contribute to its unique character and quality and manage change appropriately.	<p>The proposed development will not impact any local Heritage Items or the SHL Fernhill Estate (Paul Davies Pty Ltd. EP Heritage Impact Statement 2014).</p> <p>Income or part there of the sale of lots within the Eastern Precinct will facilitate the conservation of Fernhill.</p>

## 7.0 Suitability and Conclusion

The following statement provides a summary of the suitability of the site for the proposed development according to Section 79 C (1) (C) of the EP & A Act 1979:

- With this report and associated technical documents having particular regard to the requirements for heritage conservation, ecological and bushfire impacts, this application has addressed and considered the relevant planning instruments for the site.
- Environmental impacts have been mitigated through identifying a footprint that is predominantly in an already cleared location, with minimal impact on local biota and prevented isolation and fragmentation of ecological communities.
- Income generated or part there of the funds generated from the subdivision of the development will be utilised to establish a trust that will facilitate the ongoing conservation of Fernhill Estate.
- The subject site is appropriately sited to extend existing services in Mulgoa Village to the allotments, support local public transport and social and economic infrastructure such as Mulgoa Primary School and local shops.
- Provision of the ongoing preservation of the State Heritage listed Fernhill House and grounds through the implementation of maintenance of works identified within the CMP, will preserve an important part of Penrith City's cultural heritage.
- Implications on local traffic, parking and noise from the proposed subdivision have been identified as negligible and will not detract the safety and efficiency of Mulgoa Road.

In conclusion the proposed development will provide funds required to preserve Fernhill Estate, which is a state heritage listed item. The proposed development does not detract from the character of the Village of Mulgoa or scenic and heritage listed areas identified within the PLEP 2010. This proposal is recommended for approval.