

Development Application Statement of Environmental Effects



Penrith Lakes

Staged Development Application for Subdivision

Submitted to Penrith City Council

On Behalf of Penrith Lakes Development Corporation

February 2014 ■ 13257

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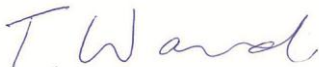
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A	Plan of Subdivision <i>Benjamin Meyer</i>
B	Car Parking Design <i>Penrith Lakes</i>
C	Land Affected by DA 5.1 <i>Penrith Lakes</i>
D	Land Use Suitability Review <i>DLA Environmental</i>
E	Engineers Statement <i>J. Wyndham Prince</i>
F	Flood Study <i>Cardno</i>
G	Flood Evacuation Plan <i>Sinclair Knight Mers</i>
H	Bushfire Hazard Assessment <i>Cityscape Planning + Projects</i>

1.0 Introduction

This Statement of Environmental Effects (SEE) is submitted to Penrith City Council (Council) in support of a Development Application (DA) for a Staged Development of the Penrith Lakes Site in Castlereagh.

For consistency with the existing referencing protocol for current DAs relating to the Penrith Lakes Site, the subject DA is referred to as 'DA5' and follows on from DAs referred to as DAs 1-4.

The SEE has been prepared by JBA on behalf of Penrith Lakes Development Corporation (PLDC), and is based on supporting technical information appended to the report (see Table of Contents) and takes into consideration the feedback obtained in pre-lodgement meeting with Council (see Section 1.1).

The land to which this DA is the majority of the land known as the Penrith Lakes Site and shown in **Figure 1** below. The Penrith Lakes Site refers to all land that is included in the *State Environmental Planning Policy (Penrith Lakes Scheme) 1989* and *State Environmental Planning Policy (State and Regional Development) 2011*. This DA does not apply to certain lands within the Penrith Lakes Site (see **Figure 5**) and a more detailed description of the development site is provided at Section 3.0 of this report. All land to which this DA relates is herein referred to as the 'development site'.

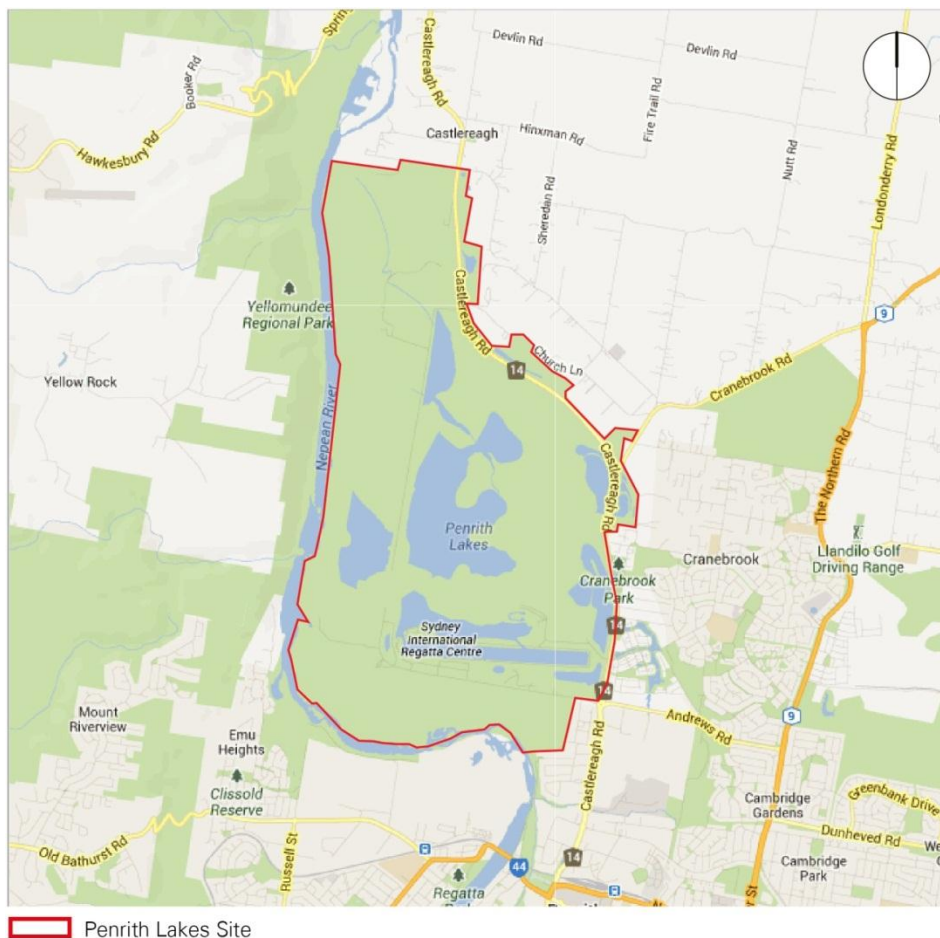


Figure 1 – Indicative Plan of the Penrith Lakes Site

In accordance with section 83B of the *Environmental Planning and Assessment Act 1979* (EP&A Act) this DA seeks approval for Staged Development for the subdivision and associated development of the development site. A staged

development application is one that sets out concept proposals for the development of a site, and for which detailed proposals for distinctive stages will be the subject of subsequent development applications. The application, however, also sets out and seeks contemporaneous approval for the development in the first stage (referred to as DA5 - Stage 1).

The proposed Staged DA seeks to implement the Penrith Lakes Scheme by consolidating and reconfiguring the allotment pattern for the development site to create super lots that generally accord with Penrith Lakes Scheme shown in the Structure Plan under the Penrith Lakes SEPP and to later facilitate subsequent subdivision of some of the super lots into smaller lots of 2ha or greater in size.

Each super lot created by Stage 1 is proposed with the intent to facilitate the future and current use of that land (or water body) shown in the Penrith Lakes SEPP Structure Plan. No use or change of use of the subdivided land is sought as part of this Staged DA.

Specifically this Staged DA seeks consent under section 83B of the EP&A Act for:

- consolidation and subdivision of the development site into super lots;
- construction of a car park; and
- subdivision of proposed super lot 4 into lots no smaller than 2 hectares, subject to a Stage 2 development application.

The Stage 1 (DA5.1) development seeks consent for the following:

- the initial paper lot subdivision of the development site into 23 super lots to create proposed Lots 1 to 23; and
- construction of a small car parking area adjacent to McCathy's Lane and outside the McCathy's Cemetery Heritage Precinct.

A future Stage 2 (DA5.2) development application will be lodged for the subdivision of proposed super Lot 4. This application will seek to create various rural residential allotments that are 2 hectares or greater in area and associated road and drainage network servicing the subdivision.

In accordance with section 91 of the EP&A Act the proposed development is integrated development. Therefore, in addition to development consent under the EP&A Act, it requires:

- approval pursuant to section 58 of the *Heritage Act 1997*; and
- authorisation from the NSW Rural Fire Service under section 100B of the *Rural Fires Act 1997*.

This report describes the development site, its environs, the proposed development, and provides an assessment of the proposal in terms of the matters for consideration under section 79C(1) of the EP&A Act.

1.1 Pre DA Consultation

In preparing the DA PLDC met with officers from Penrith City Council for a formal pre-DA meeting on 7 November 2013. The background to and the proposed development was detailed and discussed with various Council officers from different departments, including planning, engineering and environmental management. The key matters raised by Council officers and the proposed resolutions are summarised in **Table 1** below.

Table 1 – Summary of issues raised in Pre-DA consultation.

Council Issue	Resolution	Report Section/Appendix
A Heritage Impact Statement is required in support of the application.	The applicant is currently in liaison with the Office of Environment and Heritage. Heritage conservation has informed the proposed development and potential impacts are discussed throughout the SEE. A detailed and separate Heritage Impact Statement (HIS) will be submitted to Council under separate cover for this DA shortly after this DA is lodged. The HIS will involve a full appraisal of what (if any) impacts the proposal will have on the heritage value of the Penrith Lakes Site.	Sections 3.4, 5.2, 6.5
Rationale for proposed allotment layout.	The subdivisions seeks to separate land and water parcels and provide separate allotments that relate to heritage items.	Section 5.2
The application is to reflect the current master plan being undertaken by the DP&I	The subdivision application does not limit the master planning process currently being undertaken.	Section 2.4.2 and 6.2.1
Proposed lots are to be marked with their intended use/dedication	This application does not seek consent for the use of any land. The intended future use is set out under the Penrith Lakes SEPP	Section 5.2
The application is to address all relevant requirements of SEPP 55 Remediation of Land	This application does not seek consent for works, with the exception of car park facilities. A geotechnical assessment has been undertaken and appended to this report. The site is considered suitable for the proposed subdivision and works in accordance with SEPP 55.	Section 6.1 Appendix D
Flood evacuation constraints and all plans must include levels in AHD.	A flood report has been prepared to assess the impact of the proposed development on accessibility to the development site.	Section 6.6 Appendix F and Appendix G

2.0 Background

2.1 Penrith Lakes Scheme

The Penrith area has been a major source of supply of medium to coarse grained sand and crushed river gravel for the Sydney construction industry since the 1880's and today provides approximately 45% of Sydney's requirements for these materials.

Initially, excavation of the sand and gravel was from deposits in the Nepean River, however, as these reserves were depleted during the late 1950's attention was turned to the reserves under the Penrith-Castlereagh floodplain. Development consents to quarry parts of the floodplain to the northwest of Penrith were subsequently obtained by five quarrying companies, which through acquisitions have reduced to three parties; namely Boral, Hanson and Holcim.

In the late 1960's, the piecemeal manner in which the quarrying operations were being undertaken and the restriction this placed on the rehabilitation of the quarried areas was causing concern regarding the efficiency of the operations and environmental impacts.

At the request of the Penrith City Council, the State Planning Authority (now the Department of Planning and Infrastructure) examined options for coordinating the extraction of the sand and gravel resources and rehabilitation of the quarried areas. As a result, the Penrith Lakes Scheme Working Party was established, comprising representatives of five State Government Departments, the Penrith City Council and the quarrying companies. Its aim was to examine the feasibility of a program of orderly and economical extraction and comprehensive rehabilitation with a view to creating a regional water-orientated recreation resource in the former quarry areas. This concept became known as the 'Penrith Lakes Scheme'.

In 1976 the working party prepared an interim report for the comprehensive rehabilitation of the area. Further studies were undertaken to assess the technical, environmental and financial feasibility of the proposal, including determining a suitable water supply for the new lakes, and agreed mechanism for coordinating the extraction and rehabilitation activities of the independent companies.

In 1980 the Penrith Lakes Development Corporation Ltd, comprising representatives of the participating companies, was formed and commenced operation as a single entity continuing to research the rehabilitation options for the Penrith Lakes Scheme.

Consequently, in 1984 the State government published the findings of over ten years of detailed investigations in the Regional Environmental Study (RES 1984). This document remains the principle guiding document for the Scheme, outlining the preferred option of a four lakes system, and details the public and social benefits of a major water based recreational parkland to be constructed during the course of orderly excavation and rehabilitation of the Scheme.

2.2 The Corporation and its Shareholders

The PLDC was formed to undertake the coordinated extraction and rehabilitation operations of its three shareholder companies in accordance with the expressed wish of the NSW Government and the Penrith City Council.

The shareholders, Boral, Hanson and Holcim exercise joint control by means of their ownership in the Corporation. The Corporation was established to:

- undertake detailed studies to test the technical, environmental and financial feasibility of the Scheme;
- obtain approvals for quarrying and rehabilitation;
- coordinate the sequential long-term quarrying and rehabilitation operations of the shareholder companies in the Penrith-Castlereagh floodplain;
- ensure that the quarrying and rehabilitation operations were undertaken in an economical and environmentally acceptable manner; and
- maximise the future urban potential of lands within the Scheme

The PLDC undertakes the extraction of the raw material and subsequent rehabilitation work that would otherwise have been carried out separately by the shareholder companies.

By selling the raw material to its shareholders, the Corporation is able to raise sufficient revenue to implement the Penrith Lakes Scheme. The shareholder companies continue to process the raw material in their existing plants.

2.3 The Penrith Lakes Scheme

The Penrith Lakes Scheme, which involves rehabilitating sections of the Castlereagh floodplain concurrently with quarrying operations, is a complex engineering undertaking, requiring the excavation of overburden, sand and gravel to a typical depth of about 14m below ground level over a total area of about 1,935 hectares. The Penrith Lakes Scheme is specifically defined by State Environmental Planning Policy (Penrith Lakes Scheme) 1989, which is the principal planning instrument applying to the development site – see Section 6.1.1 for more detail.

Approximately 50% of the material excavated is processed and sold, while the remaining overburden is redistributed to create a variety of landforms, within the Scheme lands.

To implement the Scheme a total of four large lakes and other water-related areas with a combined water area in excess of 700 hectares are being formed. Approximately 75% of these works have been completed.

The total land area excluding lakes and water bodies will be approximately 1,200 hectares. Approximately 410 hectares of this has been envisaged for possible future urban uses under the Penrith Lakes SEPP – see Section 6.1.1 for more detail.

2.4 Planning History

The extensive deposits of sand and gravel occurring in the floodplain of the Nepean River, north of Penrith, have long been recognised by the State Government as a resource of regional significance. As a result, the resource has been identified in a number of planning instruments with the objective of providing a development control process establishing environmental and technical matters which must be taken into account in implementing the Penrith Lakes Scheme in order to protect the environment. The key documents governing the development of the Scheme since 1981 are listed in **Table 2**.

In 1986, Sydney Regional Environmental Plan 11 (SREP 11) was made. The aim of the SREP 11 was to permit the implementation of the Penrith Lakes Scheme, to identify and protect items of environmental heritage and to identify land which could later be rezoned for urban purposes. SREP 11 was later amended to be

known as State Environmental Planning Policy (Penrith Lakes Scheme) 1989 – see Section 6.1.1 for more detail about the SEPP.

Table 2 – Key documents and outcomes

Date	Document/Report	Outcomes
1984	Penrith Lakes Scheme-Regional Environmental Study	Selection of preferred Scheme and description of its effects.
1986	Sydney Regional Environmental Plan No. 9 – Extractive industry	Identified Penrith Lakes as priority for extraction.
1986	Sydney Regional Environmental Plan No. 11–Penrith Lakes Scheme.	Statutory planning framework for implementation of Scheme.
1987	1987 Deed of Agreement	Formalised the ongoing quarry operations on the site and set out the contractual obligations between the PLDC and the NSW Government.
1988	Amendment No. 1 to SREP 11	The amendment was an administrative amendment to remove the expiry clause.
1989	Amendment No. 2 to SREP 11	Amendment extended REP boundary and made provision to incorporate international standard rowing course into Scheme. This amendment increased the Scheme area by 50 hectares in the south west corner, and increased the Scheme’s resources by another 12 million tonnes of sand and gravel. The Minister for Sport and Recreation lodged a development application in September 1989 to quarry and rehabilitate the area with PLDC as project manager. This was approved in November 1989.
1989	Amendment to the 1987 Deed of Agreement	Amendment made provision for the construction of the Sydney International Rowing Centre (SIRC).
1994	Amendment No. 3 to SREP 11	Amendment to incorporate results of flood and drainage studies, providing the Scheme with design changes to better define flood control and water management arrangements. The amendment established an urban area of 230ha.
1998	Amendment No. 4 to SREP 11 - Structure Plan	Proposed amendment to incorporate implications arising from geological review, providing changes to the lake shape and size.

2.4.1 Deed of Agreement

In 1987 PLDC entered into a Deed of Agreement with the NSW Government, through the Minister administering the *Environmental Planning and Assessment Act 1979*. The implementation and completion of the Penrith Lakes Scheme is a cooperative venture between the Minister and PLDC in accordance with the Deed. The 1987 Deed of Agreement sets out the processes dealing with the use of the land for quarrying, standards for rehabilitation and other associated works related to quarrying operations. The Deed has been varied once, to enable the inclusion of an international standard rowing course known as the Sydney International Regatta Centre (SIRC).

Relocation of Castlereagh Road

PLDC undertook the relocation of Castlereagh Road in accordance with its commitment at Part 11 in the 1987 Deed of Agreement with the NSW Government. These works were completed in 2007 and have created a number of residual lots.

Urban Land

The 1987 Deed states that the Penrith Lakes Scheme cannot be successfully implemented and completed unless the potential urban land identified is considered and redeveloped for urban purposes.

2.4.2 Penrith Lakes Master Plan

We understand that the Department of Planning & Infrastructure intends to undertake a master planning exercise on the Penrith Lakes Site to establish future land use patterns and urban design. A future master plan will underpin a planning proposal to rezone the Penrith Lakes Site in accordance with the long term vision post quarrying operations.

2.5 Development Consents

The Penrith Lakes Site has been the subject of various DAs for quarrying, extraction and rehabilitation. The following details the various DAs that approved and are being implemented across the Penrith Lakes Site. All of these approvals have been granted with the objective to deliver the Penrith Lakes Scheme.

Development Application No.1 (DA1)

DA1 (DA 350/81) was approved by the Minister for Planning and Environment in July 1982 and allowed for the extraction of sand and gravel from approximately 100 hectares of land within the Penrith Lakes Site. The approved extraction was designed to be an interim activity while the preferred Scheme for Penrith Lakes was developed. The approval allowed for an estimated 12.5 million tonnes of sand and gravel to be removed from the area. As the site was being quarried under this approval, a Structure Plan for the Penrith Lakes Scheme was finalised and SREP 11 was prepared and adopted by the Minister. Under SREP 11, provision was made for the submission of sequential development applications for the progressive release of resource-bearing land within the site.

Ongoing rehabilitation of the site, with the implementation of the impending Scheme in mind, was also approved under DA1. The rehabilitation was related to extensively quarried areas of the site, undertaken before the approval of DA1.

Development Application No.2 (DA2)

A second DA (DA86-2720 and P92/00744/001) was issued on the 24 February 1987 by the Minister for Planning, for sand and gravel extraction and rehabilitation works. The main scope of the approval for DA2 (as amended) includes:

- extraction of approximately 786 ha of land to generate an anticipated yield of an estimated 39 million tonnes of sand and gravel and 20 million tonnes of overburden;
- rehabilitation and land reformation to give effect to the Penrith Lakes Scheme; and
- importation of Virgin Excavated Natural Material (VENM) to fill areas where extraction has occurred and to assist in land reformation.

In 1989 DA2 was modified to facilitate the construction of the rowing lake and associated facilities (known as SIRC), and the Castlereagh underpass.

On 20 December 2006, DA2 was further modified to undertake trials of dynamic compaction within a 39 hectare area (the DC extension area) within the 327 hectares covered by DA2. The proposal involved:

- stripping and stockpiling approximately 100mm of topsoil from the site;
- placing approximately 500-600mm of fill sourced from other areas within the Scheme over the site's exposed surface;
- flattening the site's surface with a dozer;
- establishing erosion and sediment controls;
- compacting the site to specified geotechnical standards using a 20 tonne weight that would be dropped from a height of up to 25 meters at specified locations; and
- spreading the topsoil and re-seeding the site.

The dynamic compaction testing objective was to assess its effectiveness in alleviating the need for the site to be rehabilitated via more intrusive means such as the re-excavation, re-filling and layered compaction of land, which would generate considerable additional noise and dust impacts.

Development Application No.3 (DA3)

DA3 (P92/00744/001) was approved in July 1995 and allowed for the continuation of mining activity to the north of the area mined under DA2. Approximately 406 hectares of land was approved for mining activity, and this area yielded an estimated 35 million tonnes of sand and gravel resource.

Development Application No.4 (DA4)

DA4 (P97/00237 Pt4) was lodged in November 1997 for the extraction of the remaining resources on the site, being west of Castlereagh Road. Consent was granted by the Minister for Planning on 9 September 1998 and allowed for extraction of resources from approximately 737 hectares of land primarily between the Nepean River and Castlereagh Road in the western part of the site. The mining of smaller areas of land to the north of Church Lane was also approved under DA4.

The quarrying approved by DA4 (as amended) is expected to yield in the order of 57 million tonnes of sand and gravel and 6 million tonnes of fine sand. Approval under DA4 has been granted for:

- the ongoing rehabilitation approximately 407 ha of the Penrith Lakes Site consistent with the eventual development of the Penrith Lakes Scheme; and
- importation of VENM to fill areas where extraction has occurred over the Penrith Lakes Site and to contribute to the work to create final landforms in accordance with the Penrith Lakes Scheme.

Since September 1998 six subsequent modifications have been made and approved relating to DA4 which were minor in nature.

Modification 7 was approved by the Department of Planning and Infrastructure on 2 February 2014, for the formalisation of the use of the existing water body, known as "Lewis Lagoon" as a Water Quality Control Pond to treat water before it enters the Wildlife Lake.

Modifications to DA2, DA3 and DA4 – Importation of VENM

The Department of Planning and Infrastructure approved a collective modification to all three DAs on the 2 February 2014 for the following amendments relating to the Penrith Lakes Site:

- to extend the timing of the consent to late 2015;
- to alter the source of the VENM used to rehabilitate the Penrith Lakes Site;
- minor changes to haulage routes into the Penrith Lakes Site;
- removal of one access point into the Penrith Lakes Site; and
- a change in acoustic legislation in NSW has necessitated updated noise monitoring to assess the works against noise criteria.

2.5.1 Pending Development Applications

There are various development applications and modifications to existing approvals that are currently being assessed at the time of preparing this DA.

DA – Cranebrook West 7 Lot Subdivision

PLDC has submitted a DA to Penrith City Council to subdivide land east of Castlereagh Road (reference DA13/1410). The proposal seeks approval to create 7 lots ranging in site area from 585m² to 1,733m² and for associated earthworks. This Stage 1 development application is set to precede DA13/1410 and form a strategic basis for that application.

DA – Escarpment 9 Lot Subdivision

PLDC has submitted a DA to Penrith City Council (DA14/0027) to subdivide approximately 24 hectares of land east of Castlereagh Road and on the southern side of Church Land to create nine rural residential allotments ranging from 2-5 hectares in size. This Stage 1 development application is set to precede DA14/0027 and form a strategic basis for that application.

DA – Nepean River Pump and Pipeline

PLDC will submit an application to the Department of Planning & Infrastructure for the construction of a pumping station and pipeline on the banks of the Nepean River for the purpose of extracting water for use in the Penrith Lakes Scheme. The pumping station is part of the infrastructure required for the first filling and maintenance of lake water levels. The pumping station was envisaged in the RES 1984 as a key piece of infrastructure required by the State government to manage the water based parklands and was agreed by the PLDC to be constructed as part of the deliverables under the 1987 Deed of Agreement.

3.0 Site Analysis

3.1 Site Location and Context

The Penrith Lakes Site is located on the Castlereagh floodplain of the Nepean River, approximately 3 km to the north of the Penrith CBD (Figure 2). The Penrith Lakes Site is approximately 1935 ha in area and is approximately 6.5 km long and 3.5 km wide (at its widest point). It is located at the edge of the Sydney Basin adjacent to the Blue Mountains and bounded by the Nepean River to the south and west, Cranebrook Village and the Cranebrook Escarpment to the east, and rural land to the north. The Penrith Lakes Site sits adjacent to existing rural land uses, villages and residential development. Penrith Lakes is easily accessed by the M4 and in close proximity to Penrith CBD, a key regional city within metropolitan Sydney.

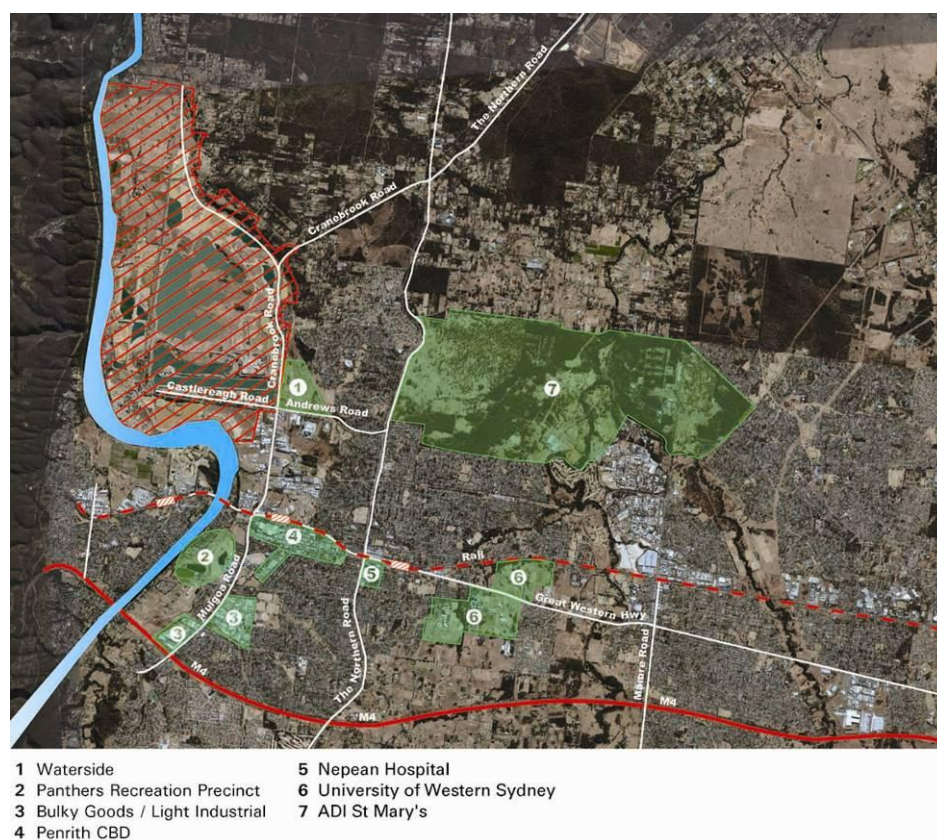


Figure 2 – Penrith Lakes Site Location and Context

3.2 Existing Site Functions

The Penrith Lakes Site has been intensively quarried for sand and gravel over the past 20 years (see Figure 5) and is a major source of sand and gravel for Sydney’s building industry and has traditionally supplied about 45% of the sand and gravel resource over the past 20 years. The total sand and gravel resource on the site was approximately 220 million tonnes, of which 200 million tonnes has been extracted. Approximately 8% of the original sand and gravel resource remains available for extraction. At current rates the remaining quarry resource is expected to take around 12-15 months to be fully extracted.

Before quarrying operations the land has been used for agriculture and horticulture, particularly orchards. The Darug people used the land for hunting, gathering and as a meeting place before European settlement. Due to the current and post

European settlement uses the Penrith Lakes Site has limited vegetation left, however, there are stands of native vegetation remaining including Cumberland Plain Woodland. The majority of the Penrith Lakes Site now consists of exotic grasslands or quarried land in various stages of rehabilitation. Consequently, the main environmental considerations relate to the physical heritage and the existing geotechnical and hydrological conditions.

The ongoing quarrying activities have continued to extract sand and gravel and to form the lakes and landforms as identified in the Structure Plan in State Environmental Planning Policy (Penrith Lakes Scheme), the main planning instrument currently applying to the Penrith Lakes Site. Part of Lake A has been formed and the Sydney International Regatta Centre (SIRC) and Penrith White-water Stadium have been established on the Penrith Lakes Site. The SIRC was the location of the rowing competition at the Sydney 2000 Olympic Games. The land adjacent to the SIRC has been landscaped and revegetated. The SIRC is currently used as a recreational and elite sport venue for triathlons, rowing, canoeing, cycling, walking and picnicking.

As quarrying operations are completed the Penrith Lakes Site is being progressively rehabilitated to form a series lakes and open space areas. Rehabilitation is also being undertaken to allow for future urban development over a portion of the Penrith Lakes Site. PLDC estimate that extractive quarrying operations will be completed by April 2015 (depending on market demand).

3.3 Heritage

The Penrith Lakes Site includes a number of natural and indigenous cultural heritage sites and areas and a number of European heritage items. The key heritage items are identified within SEPP Penrith Lakes and Penrith Local Environmental Plan 1991 (Heritage and Conservation), with the 'Upper Castlereagh Public School and Residence' also listed on the State Heritage Register. "The Poplars" also containing archaeological relics defined under the Heritage Act 1977. The key heritage items are depicted in **Figure 3** and identified in **Figure 4**.



Nepean Park



Christ Church Castlereagh



Methodist Church Hall and Bell Tower



Methodist Church Hall and Cemetery

Figure 3 – Heritage Items

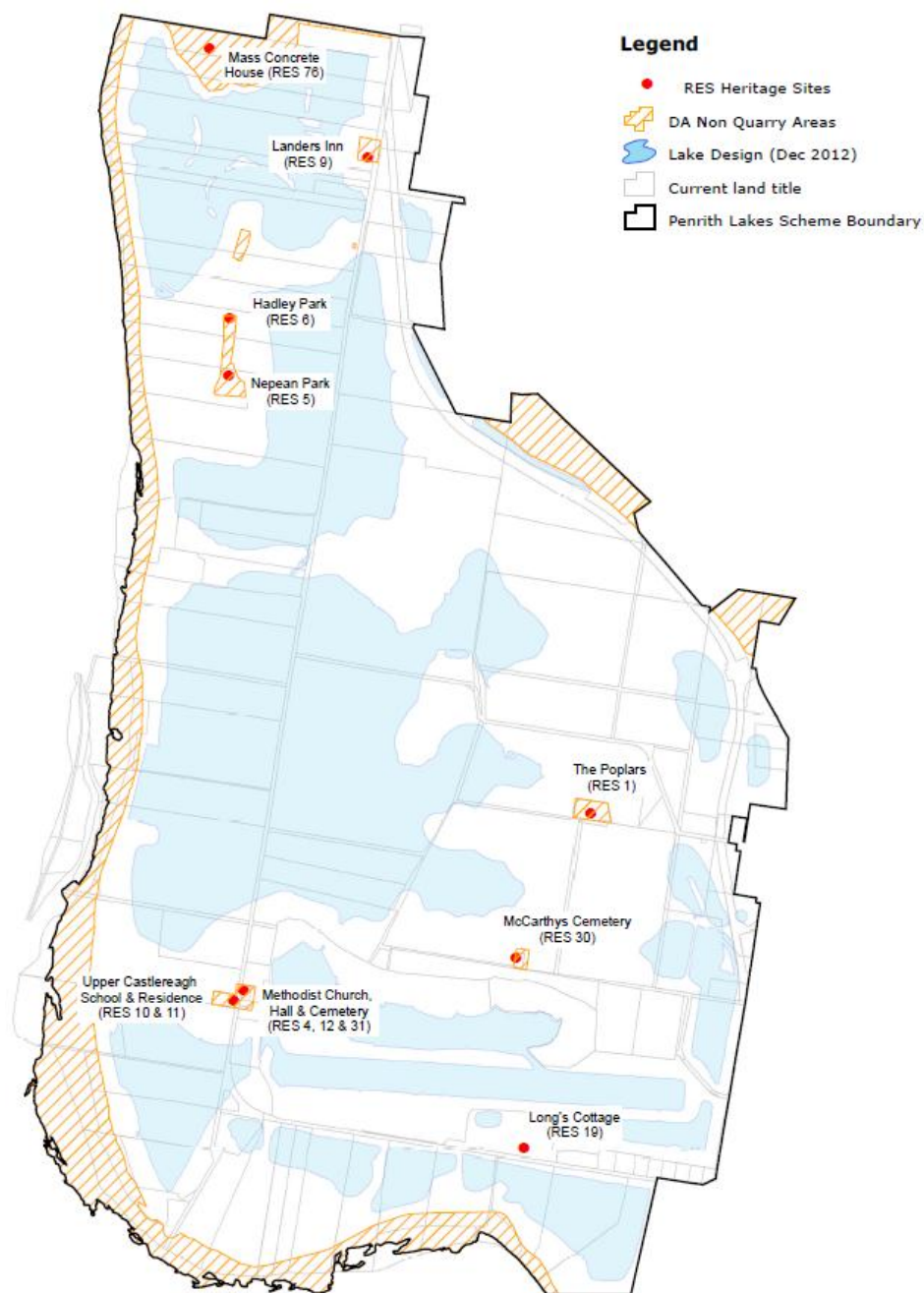


Figure 4 – Key heritage sites and conservation areas within the Penrith Lakes Site

3.4 The Development Site

Land within the Penrith Lakes Scheme boundary comprises land owned by PLDC, the NSW Government and private landowners. However, the significant majority of the Penrith Lakes Site is owned by PLDC. This application only relates to land under ownership of PLDC and the NSW Government and is referred to as the development site, indicatively shown in **Figure 5**. The legal descriptions of the land to which the proposed Staged DA applies and associated ownership details are included in **Appendix C**.

A number of allotments within the Penrith Lakes Site have been excluded from this application as the lots have been rehabilitated, consolidated and returned to

Government ownership, or the allotment contains an item of heritage significance where the existing allotment pattern affords the preservation of that item. The following Lots within the Penrith Lakes Site are not included as part of this application:

- Lot 482 DP849952 (Nepean Park)
- Lots 1 and 2 DP735602 (Upper Castlereagh Public School and residence)
- Lots 1 and 2 DP196573 (Upper Castlereagh Methodist church, hall and cemetery)
- Lots 20 and 21 DP1092147
- Lots 16,14, 12, 10, 8, 6, 4 DP793163
- Lot 82 DP1129226 (McCarthy's Cemetery)
- Lot 10 DP1014419 (The Poplars)
- Lot 2 DP229462
- Lot 2 DP1107181
- Lot 61 DP581560
- Lot 1 DP1191173
- Lot 247 DP752021
- Lot 103 DP1143931
- Lot C DP374804
- Lot 2 DP522490
- Lot 11 DP839890



Figure 5 – Existing development and the development site

4.0 Relevant Planning Framework

The following legislation and strategies are relevant to the proposed development:

- Environmental Planning and Assessment Act 1979
- Heritage Act 1977
- Rural Fires Act 1997
- Metropolitan Plan for Sydney 2036
- Draft Northwest Subregional Strategy

4.1 Legislative Framework

The legislative framework for the development site and the relevant scope of each piece of legislation in relation to the development proposed is identified in **Table 3** overleaf.

Table 3 – Legislative Framework

Legislation	Comment/Requirement
Environmental Planning and Assessment Act 1979 (EP&A Act)	
Development Consent	– Development consent is required under Part 4 of the EP&A Act and pursuant to the relevant provisions of SEPP (Penrith Lakes Scheme).
Environmental Assessment	– Requires a consent authority to have regard to the environmental impacts of development and assess development in accordance with relevant environmental planning instruments, development control plans, policies etc (s.79C(1)). This assessment is included at Section 6.0.
Staged Development	– In accordance with section 83B, consent is sought for the overall concept and layout of the subdivision of the development site. In addition, consent is also sought for the subdivision and associated works for the first stage of the development (known as Stage 1) (s.83B(3)(b)).
Integrated Development	– Pursuant to section 91, the development is integrated development. Hence, additional consent and approvals are required from various authorities (see below for more detail).
Heritage Act 1977	
	– The Upper Castlereagh School and the School Master's Residence (State Register) and the Nepean Park (National Estate) are listed as a State Heritage Listed items pursuant to the <i>Heritage Act</i> .
	– Where a site is listed as a State Heritage listed item, approval is required from Office of Heritage to the carrying out of any development in relation to the land on which the item, work or relic is situated, the land that comprises the place, or land within the precinct.
National Parks and Wildlife Act 1974	
	<ul style="list-style-type: none"> – Consent is required pursuant to section 90 from the Director General of NPWS to permit the removal/disturbance of an Aboriginal object on a site for the purposes of any proposed works or development. – A AHIP permit allowing testing and salvage excavations of Aboriginal objects or places on the Penrith Lakes Site has been issued under section 90 of the National Parks and Wildlife Act 1974 (NPW Act). All salvage works have been carried out across the Penrith Lakes Site in accordance with this permit. – A permit is not considered to be required as there is little likelihood of finding any Aboriginal objects over the development site and only physical works proposed for Stage 1 relate to the construction of the McCarthy's Cemetery. – However, as a precaution, if during the carrying out of the development (in particular earthworks and remediation) any Aboriginal objects are located the works will cease and an Aboriginal Heritage Investigation Permit (section 90 permit) will be sought from NPWS to carry out investigations by a qualified consultant.
Rural Fires Act 1997	
	<ul style="list-style-type: none"> – Fringes of the site are identified as being bushfire prone – Approval is required from the NSW Rural Fire Service under section 100B of the Rural Fire Act.

4.2 Strategies

In December 2010, the NSW Government released its Metropolitan Plan for Sydney 2036. This document supersedes the Metropolitan Strategy for Sydney to 2031, which was released in December 2005. Broadly the plan sets the direction and context for taking forward development across the Sydney Metropolitan area to deliver improved transport, housing and employment opportunities over the next 25 years.

The draft North West Sub-Regional Strategy is a key state planning tool to guide Council in achieving the Metropolitan Plan's objectives at a local level. Relevant to the Site and its development, the sub-regional strategy identifies that the North West Region is expected to deliver approximately 140,000 new dwellings by 2031, of which the Penrith Local Government Area (LGA) is to contribute approximately 25,000 of these.

The intended and future use of part of the Penrith Lakes Site for urban development is likely to include a component of residential development that will assist in contributing to these targets. However, the proposed development does not propose to facilitate housing at this stage, but rather implement a subdivision framework that supports the future implementation Penrith Lakes Scheme as illustrated in the Structure Plan of the Penrith Lakes SEPP.

5.0 Description of Proposed Development

5.1 Purpose of Development

The proposed Staged Development seeks to implement the Penrith Lakes Scheme by consolidating and reconfiguring the allotment pattern for the development site to generally accord with Penrith Lakes Scheme shown in the Structure Plan under the Penrith Lakes SEPP and to later facilitate subsequent subdivision of some of the super lots into smaller lots of 2ha or greater in size.

Each super lot created by Stage 1 is proposed with the intent to facilitate the future and current use of that land (or water body) shown in the Structure Plan and is to be dedicated to the State government or retained for possible future urban purposes. No use or change of use of the subdivided land is sought as part of this Staged Development application.

5.2 Stage 1

5.2.1 Subdivision

The first stage of subdivision seeks to create 23 super lots that reflect both the Penrith Lakes SEPP, the associated Structure Plan and lands to be dedicated under the Deed.

The proposed Stage 1 subdivision consolidates more than 200 lot parcels into 23 relatively large consolidated lots – see **Table 4** for more detail. The existing subdivision pattern does not reflect the quarried and rehabilitated state of the land and nor does it facilitate the delivery of the Penrith Lakes Scheme as it does not adequately reflect land and water bodies and potential urban areas under the Structure Plan. Further the existing subdivision pattern does not facilitate the timely return of land to Government ownership as rehabilitation works are completed.

The proposed Stage 1 subdivision primarily seeks to excise water bodies from land area. These areas are shown in blue in **Figure 6**. A number of the man-made lakes under the Penrith Lakes Scheme are nearing completion, however the existing subdivision pattern does not reflect the alignment and buffer area surrounding these water bodies.

Remaining land within the development has been separated into parcels reflective of the level of completion, to facilitate a timely return of land to public ownership. Certain parcels of land within the development will not undergo any boundary change but still form part of this application as to rationalise the existing Lot and DP function of the development site and to be inclusive under a single Deposited Plan.

The proposed Stage 1 subdivision pattern will provide separate allotments to significant heritage items that respond to context of the item within the overall development site. Lots 20 and 7 have been separated for this reason and the rational applies to the division of Lots 21 and 3.

Table 4 provides a summary of the proposed allotment areas and a representation of the proposed plan of subdivision is provided at **Figure 6**. More detailed subdivision plans are included in **Appendix A**.

Future land ownership transfer will be subject of the Deed of Agreement between the State Government and PLDC and is not a consideration of this application.

Stage 2 of the development will seek to subdivide lot 4, which relate to land referred to as 'Future Urban' under the Structure Plan, to a minimum of 2 hectares in accordance with the minimum lot sizes provided for under Penrith Interim Development Order No.93 (the "IDO 93").

Table 4 – Proposed Super Lots for Stage 1

Proposed Lot Number	Location Name	Proposed Lot Area	Reason for Subdivision
1	Lake A	366.9ha	Lake & Buffer Area
2	Quarantine Lake	51.5ha	Lake & Buffer Area
3	Southern Wetlands	239.8ha	Residual area
4	Future Urban Area	339.2ha	Residual area
5	Landers Inn	5ha	Residual lot including heritage item
6	Smiths Road	14.5ha	Residual lot including heritage item
7	Wildlife Lake	41ha	Residual area
8	Nepean Lake B	26.1ha	Residual area
9	Nepean Lake A/B	50.2ha	Residual area
10	Wildlife Lake	175.5ha	Lake & Buffer Area
11	Lake B	158.5ha	Lake & Buffer Area
12	Lewis Lagoon	18.9ha	Residual area
13	The Escarpment	24.4ha	Residual area (subject of DA14/0027)
14	Vincent Creek	7.5 ha	Residual area
15	Cranebrook Lake	12.9ha	Lake & Buffer Area
16	Cranebrook Urban	3.6ha	Residual area (subject of DA13/1410)
17	Cranebrook West	0.9ha	Residual area (subject of DA13/1410)
18	Stilling Basin	Part 1 2.2ha Part 2 1.2ha	Residual area
19	PLDC Offices	12. ha	Residual area
20	Hadley Park	21.9ha	Residual lot including heritage item
21	Heritage Village	48.2ha	Residual lot including heritage item
22	Wilchards North	Part1 0.5ha Part 2 5.8ha	Residual area
23	Church Lane	2.5ha	Residual area

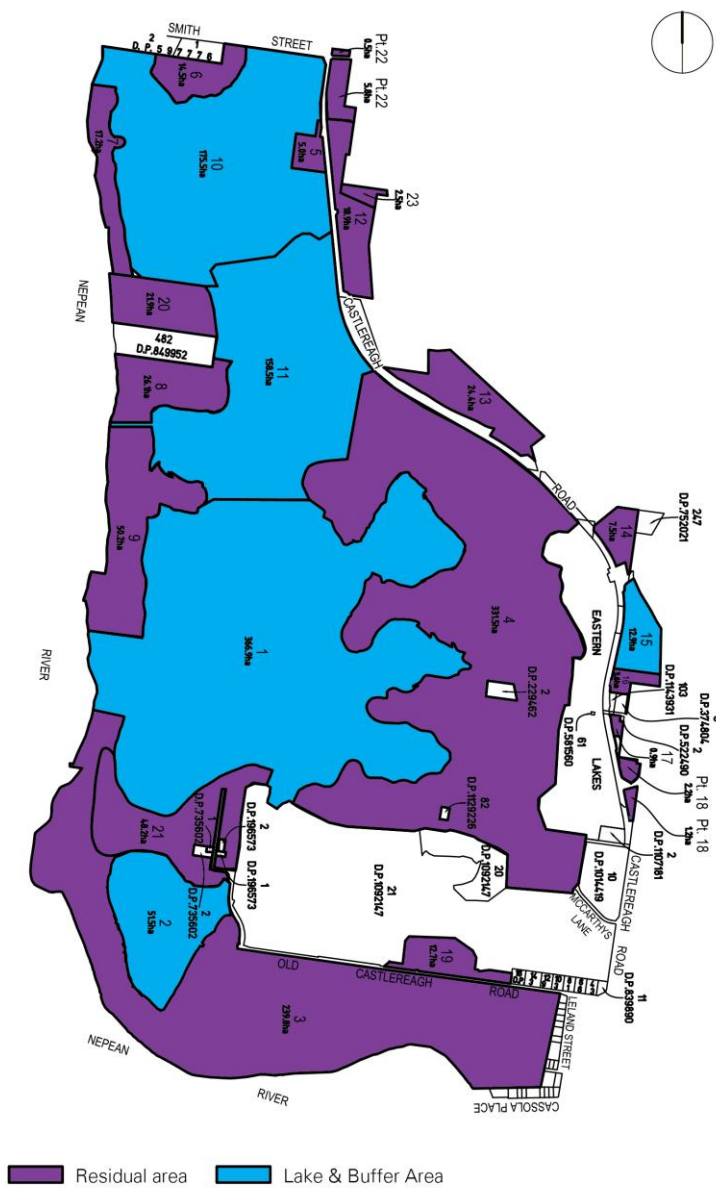


Figure 6 – Proposed subdivision

5.2.2 Car Parking Area

The proposed development consists of the construction of a car park on vacant land adjacent to McCarthy’s Cemetery (NB: Cemetery site is not included in this application). The car park provides a total sealed area of approximately 200 square metres comprising five standard car spaces and one disabled car space, conforming with the Australian Standards (AS2890.1:2004 & AS2890.6:2009). The car park is accessed via the existing haulage road through the Penrith Lakes Site.

Engineers designs for the proposed car park at tabled at **Appendix B**.

5.3 Development Staging

As stated in Section 5.0 of this report, this application is a staged development application. This Stage 1 development application incorporates the following:

- Consolidation and reconfiguration of 211 existing allotments into 23 super lots conforming with the indicative layout of the Penrith Lakes Structure Plan;
- Construction of a six-space car park adjacent to McCarthy’s Cemetery; and
- In principle support for Stage 2 of the development proposal.

Stage 2 of the proposed development provides for the following:

- Subdivision of the proposed super lot 4 of the Stage 1 development into parcels no smaller than 2 hectares in area;
- Design of drainage network servicing subdivided super lot 4; and
- Design of road network internal to the Penrith Lakes Site and providing servicing to proposed subdivision.

Further traffic, flood evacuation and urban design studies will be undertaken to inform the Stage 2 application and it is considered that these issues will be subject to assessment at the time of lodgement of the Stage 2 development application with Council. An indicative layout of the overall development is set out in **Figure 7** below and presented at **Appendix A**.

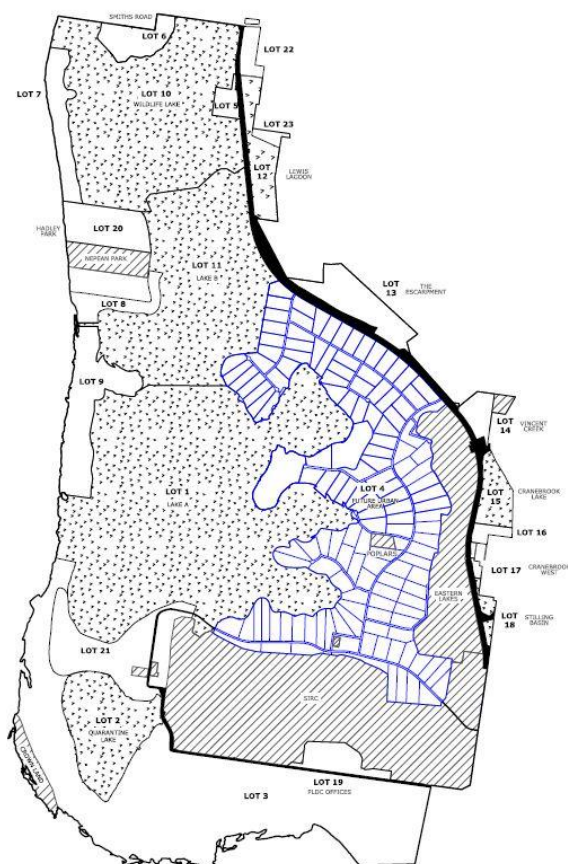


Figure 7 – Indicative staged subdivision development application

5.4 Alternatives to the proposed development

The alternative development scenario discussed by Council during the pre-DA consultation, involved the amalgamation of the development site into a single allotment. This option is not considered viable as this would not facilitate the staged handover of the development site and is not reflective of the Penrith Lakes Scheme. The proposed development seeks to reconfigure allotment boundaries to be generally in accordance with the Structure Plan 1998 to facilitate the staged dedication of land to Government ownership once extraction and rehabilitation is complete for that parcel. The proposed subdivision pattern allows for further investigation of the land designated as 'future urban' under the Structure Plan, subject to further development application. Further, the proposed subdivision will provide greater protection to items of heritage significance in comparison to a single allotment covering the entire development site.

5.5 Consequences for not carrying out the Development

The proposed subdivision facilitates the orderly rehabilitation and hand over of land from PLDC to the State Government in accordance with the Penrith Lakes SEPP and the Deed of Agreement. Without the proposed consolidation and realignment of allotments within the Penrith Lakes Site, the orderly exchange of land cannot proceed, which will slow progress across the Penrith Lakes Site. The consequence of not carrying out the proposed development will limit the timely and efficient implementation of the Penrith Lakes Scheme and not define significant heritage allotments.

6.0 Assessment of Environmental Impacts

This section considers the planning issues relevant to the proposed development. It contains our assessment of the environmental impacts of the proposal and identifies the steps to be taken to prevent or mitigate the potential impacts on the environment.

6.1 Compliance with Relevant Strategic and Statutory Plans and Policies

The following planning instruments and policies apply to the site:

- SEPP Penrith Lakes;
- SEPP 55 – Remediation of Land;
- SEPP (State & Regional Development);
- Interim Development Order 93;
- Interim Development Order 47;
- Interim Development Order 13;
- Penrith Local Environmental Plan 1988 (Urban Land);
- Penrith Local Environmental Plan 1991 (Environmental Heritage Conservation);
- Draft Penrith Local Environmental Plan 2013; and
- Penrith Development Control Plan 2006.

Figure 8 below is provided to assist in illustrating the extent to which of each of the current local environmental planning instruments applies to the site. It is noted that the Penrith Development Control Plan 2010 only applies to land to which the Penrith LEP 2010 applies – this area is not the subject of this development application. A comprehensive assessment of the relevant provisions of these instruments and the proposed development is provided below.

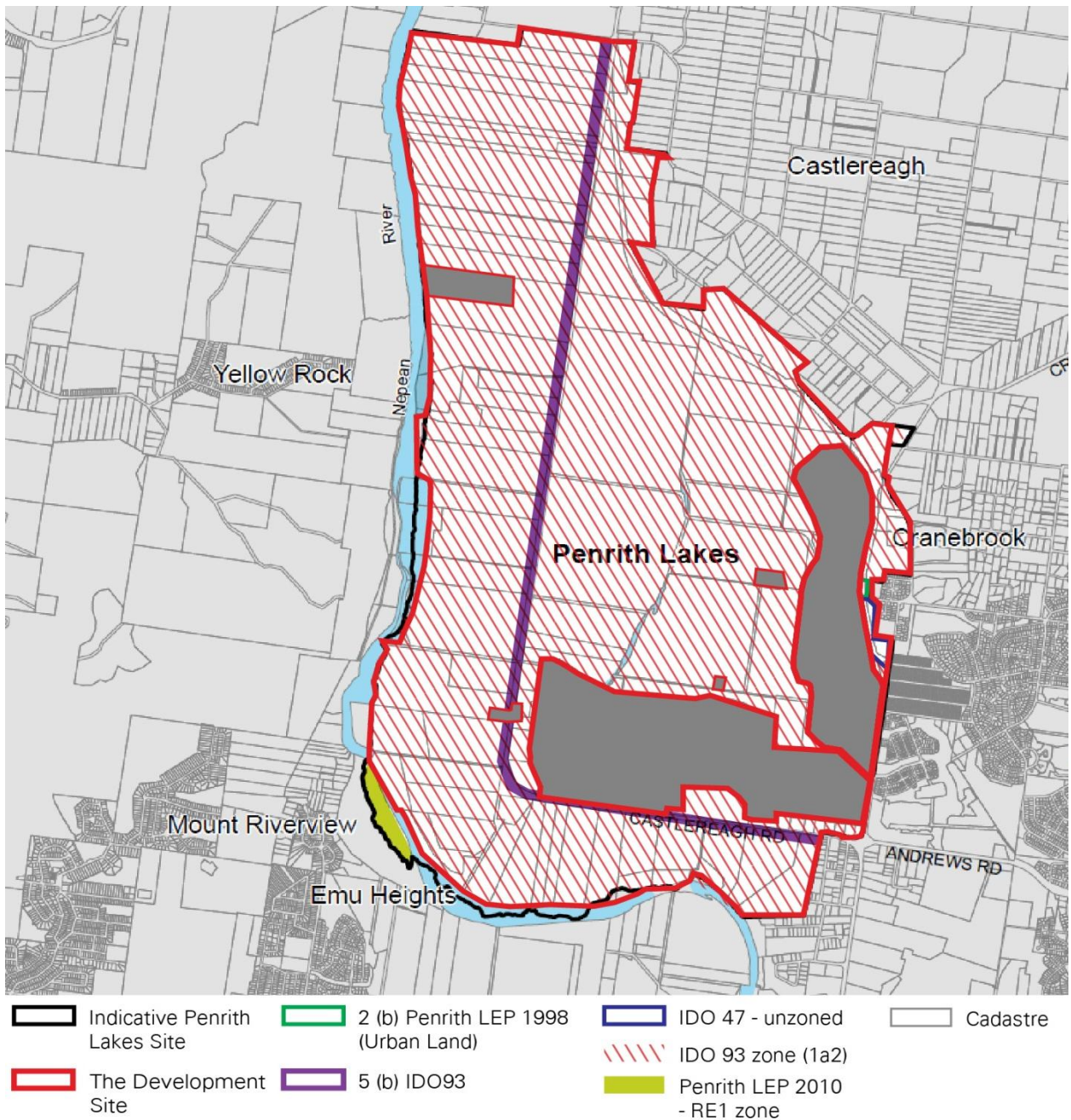


Figure 8 – Indicative Plan of Local Planning Instruments applying to the Penrith Lakes Site

6.1.1 State Environmental Planning Instruments

State Environmental Planning Policy – Penrith Lakes Scheme (Penrith Lakes SEPP) 1989

The Penrith Lakes SEPP applies to the whole of the development site. It is the key planning instrument that relates to the Penrith Lakes Site and its development.

Unless the development on the Penrith Lakes Site is considered to be State Significant Development or Regional Development pursuant to the EP&A Act, Penrith City Council is the consent authority for all other development pursuant to clause 6 of the Penrith Lakes SEPP. Development for the purposes of this

application is not State or Regional Development, consequently Council is the consent authority.

Clause 7 of the Penrith Lakes SEPP requires that no development should be carried out on the Penrith Lakes Site unless the development is authorised by the Penrith Lakes SEPP. Development permitted by the Penrith Lakes SEPP includes that referred to as the 'Penrith Lakes Scheme'.

Under clause 2 the objective of the SEPP is also to permit the implementation of the Penrith Lakes Scheme, which is specifically defined under Schedule 1 as follows:

*" The Penrith Lakes Scheme is the creation of a regional recreational lake system as shown on the **structure plan** for the benefit of the public as a result of:*

- (a) the staged optimum extraction of sand and gravel reserves,*
 - (b) the staged rehabilitation, reconstruction and landscaping of the land, and*
 - (c) the staged formation of a series of interconnected lakes,*
- and includes the identification of land for possible future urban purposes as a result of the work referred to in paragraphs (a) and (b)."* (emphasis added)

The Structure Plan is shown in **Figure 9** below. It identifies the number, size and structure of lakes and future urban areas to be developed over the Penrith Lakes Site. The plan also identifies heritage items, open space, detention basins and the realigned Castlereagh Road within the Penrith Lakes Site. Pursuant to clause 8 of the SEPP, development for the purposes of the Penrith Lakes Scheme is permissible with development consent.

In accordance with clause 8(2) of the SEPP, Council shall grant consent for development for the purpose of implementing the Penrith Lakes Scheme, on the Penrith Lakes Site unless it is of the opinion that the development:

- does not fully implement the Penrith Lakes Scheme;
- will not ensure the satisfactory implementation of the Penrith Lakes Scheme; or
- does not generally accord with the Structure Plan.

All works pertaining to existing DA for the Penrith Lakes Site (see Section 2.5) have been or are being carried out to give effect to the implementation of the Penrith Lakes Scheme. Specifically these works have been carried out generally in accordance with the Structure Plan, to create a substantial portion of the lake formations and developable areas of the Penrith Lakes Site generally. Moreover, the new and realigned Castlereagh Road has been provided and accords with that alignment shown in the Structure Plan.

The proposed Staged Development seeks to contribute towards further implementation of the Penrith Lakes Scheme in accordance with the clauses 7 and 8(2) of the Penrith Lakes SEPP. Specifically, the proposed Stage 1 subdivision will replicate the lake layout of the Structure Plan through the formation of lots 1,2, 10, 11, 15 and 18.

This proposed pattern of subdivision layout also supports the staged implementation of the Penrith Lakes Scheme by removing the extensive and somewhat cumbersome existing subdivision pattern across the development site, and by setting a subdivision layout that reflects the future and likely development of the Scheme.

Lots to the east of the realigned Castlereagh Road have been included in this application to facilitate the orderly subdivision of the development site as a single

Deposited Plan rather than part allotments, remaining from original subdivision pattern. The proposed subdivision of land east of Castlereagh Road does not preclude the future urban use as prescribed under the Structure Plan. This land is considered within the transition zone between the existing urban area and the Penrith Lakes Site.

Eight heritage items have been identified and protected by the Penrith Lakes SEPP, including the following structural items are listed for retention in Schedule 3 (Heritage Items) of SEPP 11:

- Hadley Park, lots 1 and 2, MPS (OS) 8807 (shown as Heritage Item No 1 on the structure plan).
- Nepean Park, part portion 48 (shown as Heritage Item No 2 on the structure plan).
- McCarthys Cemetery, part portion 82, (shown as Heritage Item No 3 on the structure plan).
- Upper Castlereagh Methodist Church and Hall, part portion 71 (shown as Heritage Item No 4 on the structure plan).
- Upper Castlereagh School and Residence, part portion 54 (shown as Heritage Item No 5 on the structure plan). Permanent Conservation Order No 339 under the Heritage Act 1977, applies to Upper Castlereagh School.
- Methodist Cemetery, part portion 71 (shown as Heritage Item No 6 on the structure plan).

These heritage items are shown on the Penrith Lakes SEPP Structure Plan at **Figure 9**, see also **Figure 4** above.

Proposed lots 5, 20 and 21 have been divided from the residual land as to provide separate allotments that relate to heritage items as set out under the Penrith Lakes SEPP. The allotment boundaries generally conform with the Structure Plan and have been informed by the significant heritage items within the development site. In accordance with clause 15 of the SEPP (Development in the vicinity of an item of environmental heritage) a detailed assessment of the proposed development’s potential impacts to these will be addressed in the Heritage Impact Statement to be submitted in due course

This SEE report has been prepared in accordance with clause 8(3) of the Penrith Lakes SEPP, which requires the SEE to consider and address all matters listed in Schedule 2 and in clause 8(4). The **Tables 5 and 6** below address in detail the various matters listed in these provisions.

Table 5 – Matters Specified in Schedule 2 of Penrith Lakes SEPP

Schedule 2	Matter	Location addressed in SEE
Subclause 1		
(a)	Justification of proposed development	Section 5.0 and 2.5
(b)	A full description of the development	Section 5.0
(c)	A statement of the objectives of the proposed development	Section 5.0
(d)	A full description of the existing environment likely to be affected by the proposed development if carried out	Section 3.0
(e)	Identification and analysis of the likely environmental impacts or consequences of carrying out the proposed development	Section 6.0
(f)	Analysis of the likely environmental impacts or consequences of carrying out the proposed development	Section 6.0
(g)	Justification of the proposed development in terms of environmental, economic and social considerations	Section 6.0

(h)	Measures to be taken in conjunction with the proposed development to protect the environment and an assessment of the likely effectiveness of the measures.	Section 6.0
(i)	Energy requirements of the proposed development	N/A
(j)	Any feasible alternatives to carrying out the proposed development and the reasons for choosing the latter	Section 5.4
(k)	The consequences of not carrying out the proposed development	Section 5.5
Subclause 2		
(a)	Relationship and extent of the proposed development to the completed scheme	Sections 5.1 and 6.1.1
(b)	Integration of the proposed development with development previously carried out	Section 6.2 and 2.5
(c)	The sequence of extraction and rehabilitation	N/A
(d)	The proposed control and management of the land	N/A
(e)	The management and control of water resources	N/A
(f)	The rehabilitation and reconstruction of the land	N/A
(g)	Any effect upon a locality, place or building not listed in Schedule 3	Section 6.5
(h)	Measures to conserve and preserve items of heritage	Section 6.5
(i)	Access to supply of water	N/A

Table 6 – Matters for Consideration under Clause 8(4) of Penrith Lakes SEPP

Subclause	Matter	Location addressed in SEE
(a)	Penrith Lakes Scheme Regional Environmental Study	Section 6.1.1
(b)	Recommendations of technical working parties as may be established	N/A
(c)	Statement of Environmental Effects	This report
(d)	Proposed sequence of extraction and rehabilitation	N/A
(e)	Proposed control and management of land, if not dedicated to Crown	N/A
(f)	Management of water and control of water resources	N/A
(g)	Rehabilitation and reconstruction of the land	N/A
(h)	Access to water supply	N/A
(i)	Heritage items listed in Schedule 3	Sections 6.5
(j)	Any effect upon a locality, place or building not listed in Schedule 3	Section 6.5
(k)	Provisions of the Act that apply to the development of implementing the Penrith Lakes Scheme	Section 4.0

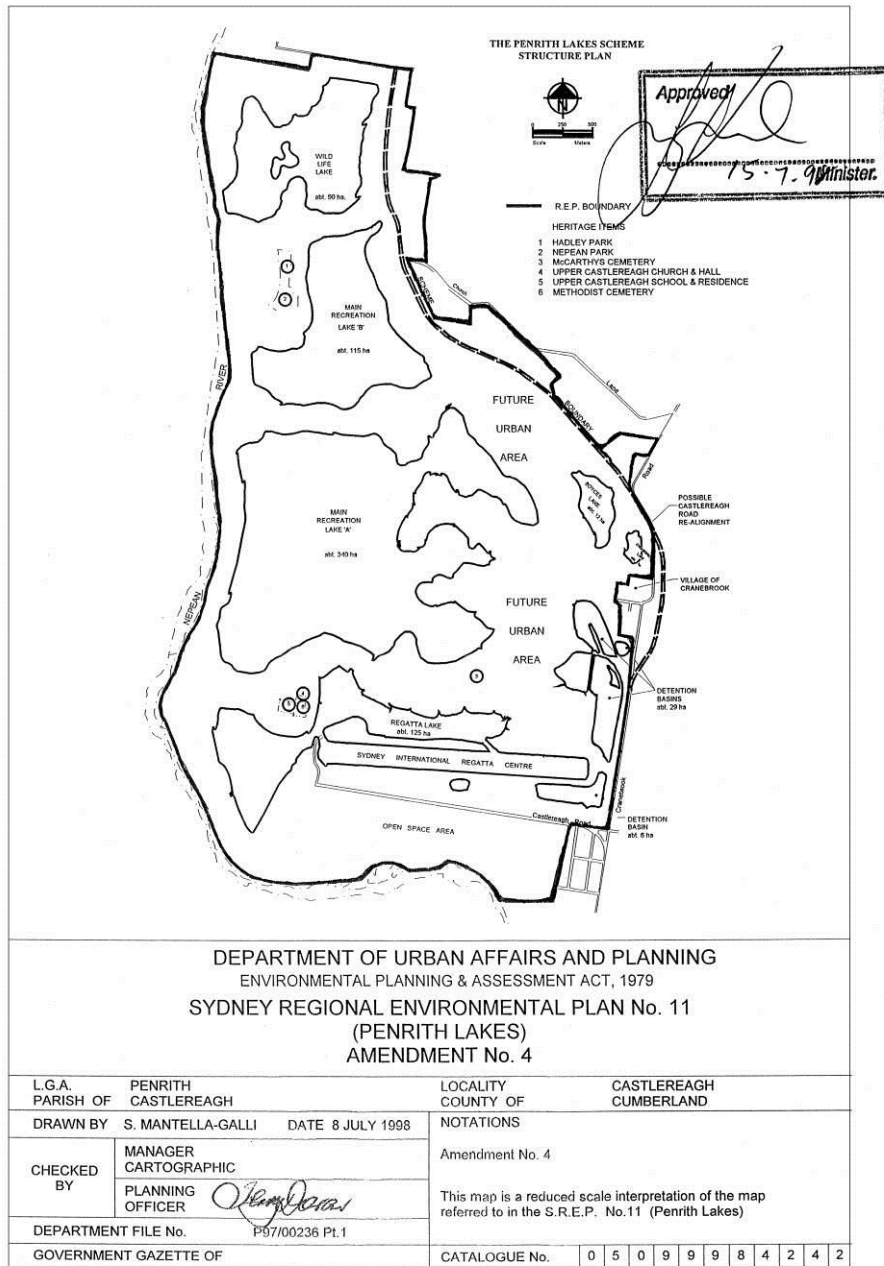


Figure 9 – Penrith Lakes SEPP Structure Plan

State Environmental Planning Policy 55 – Remediation of Land

SEPP 55 provides that a consent authority must not consent to the carrying out of development on land unless:

- it has considered whether the land is contaminated, and
- if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and
- if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

The Land Use Suitability Review, conducted by DLA Environmental and tabled at **Appendix D**, confirms that the remediation works carried out under existing

consents on the development site are sufficient to facilitate the proposed development.

The development site is considered suitable for the purposes of the staged subdivision and does not require further remediation beyond that already undertaken or being carried out by the various DAs for the Penrith Lakes Scheme.

State Environmental Planning Policy (State and Regional Development) 2010

The Penrith Lakes Site is identified at clause 8 of Schedule 2 of the State and Regional Development SEPP. Development for the purposes of extraction, rehabilitation or lakes formation (including associated infrastructure) is prescribed as State Significant Development. The proposed development does not fall within these land uses and therefore the provisions of the S&RD SEPP do not apply to the proposed development.

6.1.2 Local Environmental Planning Instruments

Interim Development Order No. 93 (IDO 93)

Under IDO 93 the majority of the development site is zoned 1(a2) Rural A2. Only Old Castlereagh Road and Castlereagh Road west of the Waterside Residential development (Lakes Environs) is zoned 5(b) Special Uses (Roads) under IDO 93 (See **Figure 8**).

Development permitted with consent under the 1(a2) zone includes:

- *advertising structures, dwelling houses, educational establishments, extractive industries, home industries, home occupations, open space, roads, sand and gravel processing, utility installations.*

Under the '5(b) (Special Uses)(Roads) zone' drainage, roads and utility installations are permissible with consent.

Under clause 5 of IDO No. 93 the minimum size of allotments that can be created with consent of Council over land zoned 1(a2) is 2 hectares (20,000m²).

There is no minimum allotment size for land that is zoned 5(b)(Special Uses)(Roads).

Under clause 6 of IDO 93 a dwelling house may be erected with the consent of Council provided that the area of the allotment to which the proposed dwelling relates is not less than 2 hectares.

The Stage 1 subdivision development is consistent with IDO 93 in that subdivision is permissible development and all proposed allotments to be created are larger than the minimum 2ha permitted. The subdivision of super lot 4 of Stage 1 to be further subdivided to lots no smaller than 2 hectares, subject to a Stage 2 development application, is also consistent with IDO 93.

Interim Development Order No. 47 (IDO 47)

A relatively small and eastern portion of the development site is land to which IDO No. 47 relates (see **Figure 8**). Part of this land includes the newly aligned and constructed Castlereagh Road that bypasses Cranebrook Village.

The following forms of interim development are permissible in the land to which IDO No. 47 relates:

Drainage; dwelling-houses; educational establishments; home industries; open space; places of public worship; road; subdivision; residential flat buildings class A and class B; units of single storey construction for aged persons; utility installations other than gas holders or generating works.

Other than the following forms of development that are described as prohibited and those listed above as interim development, all other interim development is permissible with consent.

Prohibited Development under IDO 47 includes:

Bulk stores; caravan parks; car repair stations; clubs; commercial premises; forestry; gas holders; general advertising structures; generating works; hotels; industries other than home industries; institutions; junk yards; liquid fuel depots; mines; motels; motor showrooms; places of assembly; refreshment rooms; residential flat buildings (other than for aged persons or class A or class B listed above); roadside stalls; shops; stables; stock and sale yards; transport terminals other than bus stations and bus depots.

Under clause 13 no development shall be carried out on land to which IDO No.47 applies except in accordance with a Development Control Plan (DCP) approved by the New South Wales Planning and Environment Commission (now known as the Department of Planning and Infrastructure (DP&I)). Despite this and in the absence of an approved DCP under clause 13(2) Council may approve development with concurrence of DP&I.

In accordance with clause 14 any development is not to take place until land is filled to a level satisfactory to Council. This would not preclude the ability for Council to approve the subdivision pending any filling of this land that may be required, if the current development site levels are not already satisfactory.

It is noted that there are no provisions under IDO no. 47 relating to subdivision of land. It is implied that the minimum allotment size that would be permitted in the absence of any such controls in the IDO would be 550m², based on the clauses relating to dwelling houses. On this basis the proposed subdivision of this part of the Penrith Lakes Site to create super lots is consistent with IDO 47.

Penrith Local Environmental Plan 1988 (Urban Land)

A very small parcel of land on the eastern portion of the development site is zoned 2(b) Residential (Low Density) under Penrith LEP 1988 (Urban Land) (see **Figure 7**).

Within the 2(b) zone the following types of development are permissible with consent:

buildings or other structures ordinarily associated with dwelling houses; changes of building use (as defined in the Act); child care centres; community facilities; demolition of buildings or other structures; drains; dual occupancies; dwelling houses; educational establishments; general stores; health care consulting rooms; home businesses; hospitals; internal structural work in bed and breakfast establishments; places of worship; recreation areas; roads; utility installations; utility undertakings.

The minimum standard lot size that is permissible under Penrith LEP 1988 for land zoned 2(b) is 550m². Therefore the proposed subdivision of this part of the development site is permitted and complies with this LEP.

Penrith Local Environmental Plan 1991 (Environmental Heritage Conservation)

Penrith Local Environmental Plan 1991 lists individual significant heritage assets (refer to **Figure 4**) that should be conserved and outlines the development consent and planning processes required to alter or demolish such places. Additional items of non-indigenous heritage (not listed in Schedule 3 of the existing Penrith Lakes SEPP) are included in this LEP.

For those items that are listed in the Penrith LEP but have been excluded from Penrith Lakes SEPP, clause 4 of the LEP states that Penrith Lakes SEPP prevails over the Local Environmental Plan to the extent of any inconsistency.

Notwithstanding this, the items within this plan remain applicable heritage items to consider with regard to the proposed development. It is noted that there is no consideration of indigenous heritage in LEP 1991.

The additional items of non-indigenous heritage (not listed in Schedule 3 of the Penrith Lakes SEPP) included in this LEP are:

- 'Ruin of Stone Stables associated with Landers Inn' (C6)(RES 9);
- 'Slab Cottage' (C7)(RES 16) (Puddledock);
- 'Ruins of Pise House Portion 280' (C13)(RES 37);
- 'The Poplars, Old Slab Cottage, Pise House & Garden' (CR8)(RES 1); and
- 'Upper Castlereagh War Memorial (part of Church/school precinct' (UC4)(RES 4, 10, 11 & 12).

6.1.3 Draft Environmental Planning Instruments

Draft Penrith Local Environmental Plan 2010

Under section 79C(a)(ii) of the EP&A Act and in assessing the proposed development, consideration must be given to all draft planning instruments that have been or are currently on public exhibition that apply to the development site and the proposed development.

Council placed Draft LEP 2010 on exhibition in June 2013. The draft plan is intended to amend the existing Penrith LEP 2010, which applies to much of the rural and employment lands throughout the Penrith LGA.

Draft LEP 2010 proposed to repeal the following current planning instruments applying to the development site:

- Penrith Planning Scheme Ordinance
- Penrith Interim Development Order No. 13
- Penrith Interim Development Order No. 47
- Penrith Local Environmental Plan 1991 (Environmental Heritage Conservation)
- Penrith Local Environmental Plan 1998 (Urban Land)
- Draft Amendment No.1 to Penrith Local Environmental Plan 1991 (Environmental Heritage Conservation).

It is noted that Penrith Interim Development Order No. 93 was not listed as one of many IDO's to be repealed by Draft LEP 2010 despite being listed as one of many existing environmental planning instruments in Appendix A of the Council's Planning Proposal Document in support of Draft LEP 2010 (dated May 2013), and despite the fact that this IDO applies to the majority of the development site.

Since exhibition, Council recently resolved to exclude the Penrith Lakes Site from being included as part of the lands to which the draft LEP was to apply. This means that all the existing local planning instruments applying to the development site remain (insofar as they relate to the Penrith Lakes Site) and will not be repealed by the Draft LEP once gazetted.

Despite this, the following provides an assessment of the proposed Stage 1 development against the provisions of the Draft LEP as is required under section 79C of the EP&A Act.

Under the exhibited Draft LEP the majority of the development site was proposed to be zoned 'RU1 Primary Production', with exception of a small sliver of land adjoining the new Castlereagh Road, which is proposed to be zoned SP2 Classified Road (see Figure 10).

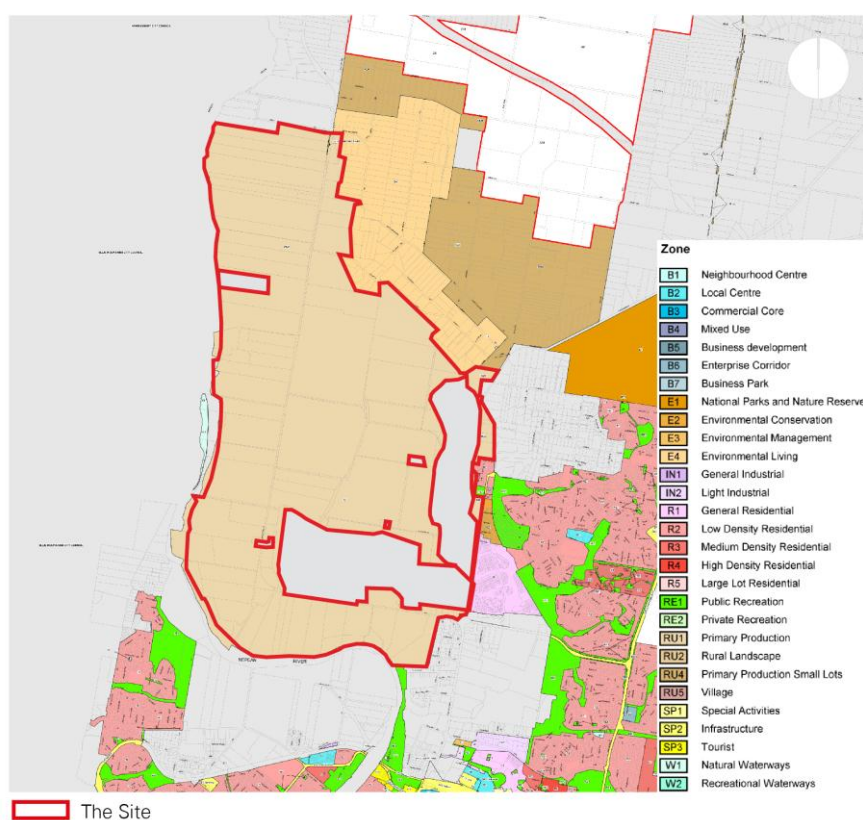


Figure 10 – Proposed zoning map for development site under exhibited Draft Penrith LEP 2010

Under the RU1 zone the following types of development are permissible with consent of Council:

- *agricultural produce industries; Agriculture; Animal boarding or training establishments, Bed and breakfast accommodation; Building identification signs; Business identification signs; Cellar door premises; Community facilities; Dual occupancies; Dwelling houses; Environmental facilities; Environmental protection works; Extractive industries; Farm buildings; Farm stay accommodation; Flood mitigation works; Forestry; Home-based child care; Home businesses; Home industries; Information and education facilities; Intensive livestock agriculture; Open Cut Mining; Roads; Roadside stalls; Rural supplies; Secondary dwellings; Stock and sale yards.*

All other types of development are prohibited under the RU1 zone.

Under clause 4.1 the minimum permitted lot size under Draft LEP 2010 for the RU1 zone was proposed to be 20ha. 52% of the proposed allotments are consistent with this control.

In accordance with clause 4.2 proposed allotments can with development consent, be less than the minimum required for the RU1 zone. This is provided that the land is subdivided for the purpose of primary production and the lots created do not include an existing dwelling or intent for a future dwelling to be erected on these types of lots. None of the 11 allotments less than 20ha in area seek to provide for an additional dwelling. The lots are consistent with the primary production use as this application does not seek consent for any change of use on the development site. Any change of use would be subject to a further development application to Council and would be assessed on the merits of that application.

6.1.4 Development Control Plans

The compliance of the proposed development is assessed against the relevant provisions of the Penrith DCP 2006 in **Table 7** below. As this development site area, subject of this development application, is not subject to the Penrith LEP 2010, the Penrith DCP 2010 is not considered a relevant matter of consideration given the nature of this application.

Table 7 – Compliance with Penrith DCP 2006

Provision	Compliance	Comment
Penrith Development Control Plan 2006		
2.1 Contaminated Land Objectives: a) To enable Council more adequately identify, record and manage known and potentially contaminated land; b) To provide direction for Council in the gathering and assessment of information in relation to previous land use activities that may have resulted in contamination; c) To assist Council in the discharge of its functions and responsibilities in relation to existing and potential land contamination with reasonable care and due diligence to minimise potential risk to both public health and the environment; d) To inform the community, particularly those interested or involved in the planning and development process, of Council's procedures relating to existing or potential land contamination; and e) To ensure that all stakeholders are aware of their responsibilities for the ongoing management of contaminated land.	✓	The proposed subdivision does not seek a change of use to the land in question. The Land Use Suitability Review, prepared by DLA Environmental (see Appendix D) confirms that the existing contamination strategies prepared for the approved DAs on the development site provide sufficient assessment and information relating to the ongoing management of contamination on the development site. All remediation works consistent with these consents render the land suitable for future development.
2.2 Crime Prevention Through Environmental Design Objectives: - Enhance and improve community safety within the City of Penrith. - Create a physical environment that encourages a feeling of safety	✓	The proposed subdivision does not preclude the future use of the Penrith Lakes Site achieving crime prevention through environmental design. CPTED controls will be implemented as part of any future relevant development

Provision	Compliance	Comment
<ul style="list-style-type: none"> - Address community concerns with regard to issues of community safety and crime prevention. - Reduce the level of crime within the City of Penrith. - Prevent the opportunity for criminal activity. - To ensure that new developments promote crime prevention through environmental design. 		application.
<p>2.2.3 Car Parking</p> <p>(a) Carparks, aisles and manoeuvring areas shall be:</p> <ul style="list-style-type: none"> - designed with safety and function in mind, and - have dimensions in conformity with Australian Standards 2890 - Parking Facilities. Relevant parts of this standard are: <ul style="list-style-type: none"> - AS2890.1 - Off-street parking. - AS2890.2 - Commercial vehicle facilities. - AS2890.3 - Bicycle parking facilities. 	✓	The proposed car park has been designed in accordance with the relevant Australian Standards. This is confirmed in the JWP Engineers Statement, tabled at Appendix E .
<p>(b) Where parking spaces are to be provided for people with disabilities, these spaces are to be:</p> <ul style="list-style-type: none"> • suitably located near entrances to the building and lifts/ access ramps, if required; and • provided in accordance with Australian Standards 1428.1 - Design for access and mobility. • Appropriate signage and tactile pavement treatments should also be installed, where required. 	✓	<p>One disabled car space is provided and has been designed in accordance with the relevant Australian Standards and located at the nearest most space to the entrance to the cemetery.</p> <p>Appropriate signage and markings will be displayed.</p>
<p>(c) The design of carparking areas should incorporate the following elements:</p> <ul style="list-style-type: none"> - provision of a safe and convenient vehicle entry and exit that avoids traffic/pedestrian conflict and impact on the surrounding road; - the internal (vehicular) circulation network is free of disruption to circulating traffic and ensures pedestrian safety. 	✓	See Appendix E .
<p>(d) The movement of pedestrians throughout the carpark should be clearly delineated by all users of the carpark and minimises conflict with vehicles.</p>	✓	See Appendix E .
<p>(e) The design of the car park should ensure that passive surveillance is possible and where appropriate, incorporate active measures such as cameras and security patrols. Car parks should be designed to minimize dark areas through the provision of appropriate lighting.</p>	✓	See Appendix E .

Provision	Compliance	Comment
(f) Large car parks should incorporate communication devices such as: - Intercoms - Public address systems - Telephones - Emergency alarms	N/A	
(g) To ensure users of large car parks are easily able to determine their location, exit and access points security intercoms, and the like appropriate signage is to be included	N/A	
(h) All surfaces in the car park should be painted in light coloured paint or finished in light grey concrete to reflect as much light as possible.	X	The proposed car park is located outside and will have sufficient natural light as to not require surfaces to be painted.
(i) All potential entrapment points should be avoided , eg. under stairs, blind corners and wide columns. Adequate lighting and mirrors should be used when certain design features are unavoidable. Refer to Section B4 for more information on entrapment.	✓	No entrapment points as the car park will not be enclosed in a structure or building.
2.5 Heritage Management Objectives: (a) To conserve the environmental heritage of Penrith; (b) To conserve the heritage significance of existing significant fabric, relics, settings and views associated with the heritage significance of heritage items and heritage conservation areas; and (c) To allow for the protection of places which have the potential to have heritage significance but are not identified as heritage items; and (d) To ensure that the heritage conservation areas throughout Penrith retain their heritage significance. (e) To provide guidance on the range and application of available conservation incentives. (f) To ensure archival records of heritage items and potential heritage places are undertaken in certain circumstances to a prescribed standard. (g) To ensure that proposals for development of environmental heritage are sustainable and appropriate way that conserves its values	N/A	This item specifically identifies that it does not apply to the Penrith Lakes Site.
2.10 Flood Liable Land Objectives: (a) To reduce the impact of flooding and flood liability on individual owners and		See Appendix F

Provision	Compliance	Comment
<p>occupiers;</p> <p>(b) To limit the potential risk to life and property resulting from flooding;</p> <p>(c) The potential for flood losses in all new developed areas shall be contained by the application of effective planning and development control;</p> <p>(d) A “merit approach” to all development and building decisions, which takes account of social, economic and ecological as well as flooding considerations, shall be followed;</p> <p>(e) To reduce the risk and implications of flooding to existing areas by flood mitigation works and other measures; and</p> <p>(f) To prevent the introduction of unsuitable land uses onto the land identified by council as being flood liable.</p>		
<p>2.10.2 The applicant shall be required to demonstrate to the satisfaction of Council:</p> <p>1. That the development will not increase the flood hazard or risk to other properties as well as including details on the structural adequacy of any building works associated with the development with regard to the effects of flood waters. All applications for development shall be accompanied by a survey plan;</p> <p>2. That the proposed building materials are suitable; and</p> <p>3. That buildings are sited in the optimum position to avoid flood waters and allow safe flood access for evacuation.</p>		<p>See Appendix F</p>
<p>3.9 Subdivision</p> <p>(a) Council will not support the subdivision of any land located in floodway or high hazard areas.</p> <p>(b) Subdivision of flood liable land that either consolidates or does not create additional lots will be considered on its merits.</p> <p>(c) Subdivision of flood liable land in rural zones creating additional allotments will generally not be supported; however, where the applicant can demonstrate that the flood hazard is classified as “low” and for each allotment there is sufficient area of land (with a minimum of 1000 sqm) above the standard flood to allow for the erection of all buildings and ancillary works to be used in conjunction with development to be carried out on the allotment, then</p>		<p>See Appendix F</p>

Provision	Compliance	Comment
<p>Council may consider a subdivision application. Flood free access shall also be provided.</p> <p>(d) Generally, land situated within existing residential, commercial and industrial zones may only be subdivided to enable its development for urban purposes where the level of the existing land to be developed is not lower than the standard flood. All lots created by such subdivision shall have the portion of the lot that can be built upon filled to a level at least 0.5m above the standard flood.</p> <p>(e) If any filling is required on flood liable land, then the requirements of section 3.11 also applies.</p>		
2.11 Car Parking	✓	No carparking rate for community services prescribed under clause 2.11. The proposed 6 car spaces are considered sufficient for the existing cemetery development.

6.2 Integration with previous development

The proposed Stage 1 subdivision directly reflects the works completed and currently being carried out under the existing consents detailed in Section 2 of this report. Primarily these works consist of the rehabilitation works that form the lakes system under the Scheme. The proposed subdivision provides for the separation of the water bodies (and associated buffer area) from the land parcels within the development site.

The proposed Stage 1 subdivision pattern reflects the land reformation works following the extraction uses and seeks to facilitate the future hand over of land as prescribed in the Deed of Agreement.

Further, the subdivision pattern provides for the preservation of heritage items as identified under the Scheme.

6.3 Urban Design

The proposed subdivision does not limit the future urban design of the Penrith Lakes Site in accordance with the Structure Plan presented at **Figure 9**.

The DP&I has been tasked with preparing a future master plan for the Penrith Lakes Site however this process is in a very preliminary stage and no negotiation with the PLDC has commenced. The master plan, nor the master planning process, do not form a matter for consideration under Section 79C of the *Environmental Planning and Assessment Act 1979* and it is considered that refusing consent to this staged development application on the grounds of a potential future master plan for the development site would be in direct breach of the aims and objectives as set out under the Penrith Lakes SEPP.

6.4 Transport and Accessibility

The proposed subdivision will not generate any traffic impact. Future use of the development site, and any associated traffic impacts, would be subject of a future development application to Council.

PLDC have provided that existing access arrangements to all allotments will be maintained and reinstated through the registration of titles and the transfer of ownership as necessary.

6.5 Heritage

The proposed subdivision pattern has taken into consideration the heritage significance of the development site. The applicant is currently meeting with the Office of Environment and Heritage to discuss the impact of the proposal on the items listed on the State Heritage Register.

The limited works proposed under this application will not result in the disturbance or damage to any items of European or indigenous heritage.

6.6 Flooding

The works carried out under the existing development consents operating on the development site have considered the impact of flooding and incorporated significant mitigation measures to regulate the impacts on future development. The flood statement provided by Cardno and tabled at **Appendix F**, confirms that proposed development will not adversely affect the flood behaviour of the development site. Further, the proposal will not adversely affect Nepean River geomorphology or the peak flood levels of surrounding regions in events up to the 1% flood event.

It is noted that residual lot 4, earmarked under the Structure Plan for future urban development will be set above the 1% flood area.

The proposed Stage 1 application does not result in an increase in traffic volumes and will not alter the existing evacuation plan for the development site. As stated in Section 6.5 – existing access provisions will be maintained and formally reinstated upon the handover of land to the State government and the registering of title arrangements. The Flood Evacuation Statement, submitted by Sinclair Knight Mers and tabled at **Appendix G**, confirms that the proposed development would not impede the evacuation of the development site nor surrounding urban areas. Stage 2 impacts will be assessed at the time of lodgement of Stage 2.

6.7 Bushfire Prone Land

The north-east and south-west fringes of the development site are classified as bushfire prone land. A Bushfire Hazard Assessment has been prepared by Cityscape Planning and Projects, in accordance with 'Planning for Bushfire Protection 2006' and appended at **Appendix H**. This assessment concludes that:

"The analysis undertaken in this report demonstrates that future development of the identified lots will be able to provide the required Asset Protection Zone, good vehicle access is already readily available and all the services are able to be provided in a suitable manner"

The report provides that future Stage 2 development would be able to be accommodated but will be assessed under separate application. It is considered that the proposed development is suitable for the development site given the identified bushfire hazard constraints.

6.8 Social and Economic Impacts

The proposed Stage 1 subdivision will facilitate the timely handover of recreation lands from PLDC to public ownership, generating public recreation services to the Penrith community. This application does not seek consent for any change of use

on the development site, and the existing use has been assessed as part of the assessment of existing DAs on the development site. The proposed subdivision will permit the return of land to public ownership as works are completed rather than withholding until extraction and rehabilitation works across the Penrith Lakes Site are complete.

The proposed development facilitates the implementation of the Penrith Lakes Scheme which seeks to realise significant community recreation infrastructure within the Penrith LGA. These facilities will provide overall social benefit to the residential and working population of the Penrith LGA and surrounding areas. The proposed development will generate significant social benefits in the medium-long term through the return of open space to public use.

6.9 Site Suitability

The development site is considered suitable for the proposed development as the proposal is conforming to the Penrith Lakes SEPP and the associated Structure Plan. The proposed Stage 1 subdivision does not generate any measurable environmental impact on surrounding land users and does not prohibit or limit any further detailed investigations in relation to the future uses of the development site that will be subject of a future master plan for the development site.

The proposed development is considered suitable for the development site as it rationalises a cumbersome existing subdivision pattern that limits the timely and efficient delivery of the Penrith Lakes Scheme. The proposed subdivision pattern aligns with the landform pattern set out under the Structure Plan and allows portions of the overall development site nearing completion to be returned to Government ownership as completed.

6.10 Public Benefit

The Penrith Lakes Scheme seeks to realise significant public benefit to the local community through the provision of significant open space within the local area. The proposed Staged application is considered to be in the public interest as it facilitates the delivery of the Penrith Lakes SEPP.

The proposed subdivision pattern seeks to separate land and water bodies within the development site and form allotments that reflect the biophysical and cultural characteristics of the Penrith Lakes Site and the level of completion of rehabilitation works. This rationale will facilitate the handover of public recreation land from the PLDC to public ownership.

Further, the proposed subdivision recognises the significant heritage items within the Penrith Lakes Site and affords boundaries that provide for conservation and interpretation of said items in their setting.

This application represents the orderly use of land and does not generate any significant environmental impacts. Stage 2 impacts will be subject to further detailed assessment.

7.0 Conclusion

This application is submitted to Penrith City Council as a Staged 1 of a staged development application for the subdivision of the Penrith Lakes Site to facilitate the delivery of the Penrith Lakes Scheme.

The application seeks to rationalise some 220 existing allotments into 23 superlots which are reflective of the Penrith Lakes SEPP Structure Plan and recognise the land and water areas of the development site as well as catering to the conservation of items of heritage significance within the area.

The Stage 1 proposal contributes to further the implementation of the Penrith Lakes Scheme, conforming with the key environmental planning instrument – the SEPP (Penrith Lakes Scheme) 1989 and associated Structure Plan – and enables the implementation of the Penrith Lakes Scheme in accordance with the cooperative venture between the PLDC and the NSW Government in accordance with the 1987 Deed of Agreement. The proposal is compliant with the relevant provisions of the environmental planning instruments applying to the development site and is generally consistent to the applicable development control plans.

The Stage 1 subdivision does not generate any significant environmental impact and is considered to be in the public interest as it facilitates the orderly return of public recreation areas within the Penrith LGA to public ownership in accordance with the Penrith Lakes SEPP.

In light of the considerations prescribed under Section 79C of the EP&A Act, we respectfully request that Council grant approval to the proposed development.