



Elizabeth Drive Subdivision

State Significant Development Assessment
SSD-8859

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Glossary

Abbreviation	Definition
ACHAR	Aboriginal Cultural Heritage Assessment Report
AHIMS	Aboriginal Heritage Information Management System
Amended EIS	Environmental Impact Statement titled Elizabeth Drive Subdivision prepared by AE Design Partnership dated 22 September 2020
Applicant	AE Design Partnership
APZ	Asset Protection Zone
BC Act	<i>Biodiversity Conservation Act 2016</i>
BCD	Biodiversity & Conservation Division, Environment & Heritage Group, DPE
BDAR	Biodiversity Development Assessment Report
CEMP	Construction Environmental Management Plan
Council	Fairfield City Council
CSMP	Concept Stormwater Management Plan
DA	Development Application
DCP	Development Control Plan
Department	Department of Planning and Environment
Development	The development as described in the Amended EIS and RTS for a 12 lot subdivision
Original EIS	Original Environmental Impact Statement titled Elizabeth Drive Business Hub prepared by AE Design Partnership dated 7 September 2018
EPA	Environment Protection Authority
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation 2000	Environmental Planning and Assessment Regulation 2000
EP&A Regulation 2021	Environmental Planning and Assessment Regulation 2021
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
EPA	Environment Protection Authority
EPI	Environmental Planning Instrument

Heritage	Heritage NSW
Minister	Minister for Planning
MNES	Matters of National Environmental Significance
OEH	Office of Environment and Heritage
Planning Secretary	Secretary of the Department of Planning and Environment
POEO Act	<i>Protection of the Environment Operations Act 1997</i>
POM	Western Sydney Parklands Plan of Management 2030
RAP	Registered Aboriginal Parties
RFS	NSW Rural Fire Service
RTS	Response to Submissions titled 'Response to the Department's Request for Further Information' prepared by AE Design Partnership dated 18 August 2021
RMS	Roads and Maritime Services
SEPP	State Environmental Planning Policy
SRD SEPP	State Environmental Planning Policy (State and Regional Development) 2011
SSD	State Significant Development
TfNSW	Transport for NSW
WSP	Western Sydney Parklands
WSP SEPP	State Environmental Planning Policy (Western Sydney Parklands) 2009
WSPT	Western Sydney Parklands Trust

Executive Summary

This report details the Department of Planning and Environment's (the Department) assessment of a State significant development application (SSD-8859) for the Elizabeth Drive Subdivision.

AE Design Partnership (the Applicant) is seeking development consent to subdivide a site at 1,111 Elizabeth Drive, Cecil Park into 12 lots (11 developable lots, one stormwater lot) and an associated internal estate road. The Applicant envisages the subdivision will provide for a range of land uses in the future, including recreation and tourism, which will be subject to future development applications.

The site is located within the Fairfield local government area, approximately 34 kilometres (km) west of the Sydney central business district, covering approximately 7.3 hectares (ha). The Western Sydney Aerotropolis is located approximately 3 km west of the site.

The site is privately owned and forms part of the Cecil Park North Precinct of the Western Sydney Parklands (WSP), which is a 27 km open space corridor in Western Sydney, covering 5,280 ha and providing a range of passive and active recreation facilities to the public.

Original Development Application

The original development application (DA) and Environmental Impact Statement (EIS) were lodged and publicly exhibited in 2019 with consent sought to subdivide the site into 14 lots, with indicative future uses including retail, light industry and business uses. The development was to use an internal estate road, gaining access from Elizabeth Drive.

In September 2019, during the preparation of the Response to Submissions, Transport for NSW (TfNSW) approached the Applicant, advising of its intention to compulsorily acquire approximately 2.6 ha of the site along the north west boundary, to facilitate the M12 Motorway project. The acquired land is to be used for the realignment of Wallgrove Road, which will see the road's intersection with Elizabeth Drive changed from being south east of the site, to immediately west of the site.

Amended Development Application

In October 2020, due to the reduction in developable area of the site and changed future road layout surrounding the site, the Applicant submitted an amended DA and EIS.

The amended application proposes subdivision of the site into 12 lots (11 developable, one stormwater basin) and an internal estate road. The site is proposed to be accessed from the realigned Wallgrove Road, to the north west of the site. The application has been designed to cater for future land uses including tourism, recreation and community uses, subject to future development applications.

The development has a capital investment value of \$10.51 million and is expected to generate 151 construction jobs. The subdivision is also expected to ultimately deliver 443 jobs following the development of all proposed lots.

Statutory Context

The development is classified as State significant development under Part 4 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) because it involves development within the WSP having a capital investment value in excess of \$10 million which meets the criteria in Clause 5 of

Schedule 2 in State Environmental Planning Policy (State and Regional Development) 2011, as in force at the time.

Consequently, the Minister for Planning, or delegate, is the consent authority for the proposed development under section 4.5(1) of the EP&A Act.

Engagement

The Department exhibited the original DA and EIS from 24 January 2019 until 20 February 2019. During the exhibition period, the Department received 10 submissions from the public (seven objections, two comments and one support) and advice from 12 government authorities, including Fairfield City Council (Council).

Key concerns raised in public submissions related to traffic impacts, suitability of the site, loss of vegetation and habitat, water and wastewater serviceability and flood and stormwater impacts. Concerns raised in the government advice related to site access and traffic impacts, consistency with strategic planning, impacts on biodiversity, flood modelling, risk from the adjoining high pressured gas pipeline and bushfire assessment.

Following the submission of the amended DA and EIS, the Department consulted with key government agencies and Council. Advice was received from a single special interest group and seven public authorities, including Council.

Despite the reduced footprint, updated technical studies and additional information provided in the amended EIS, several government agencies and Council advised that outstanding concerns remained around traffic and access, biodiversity, future land uses, bushfire protection, flooding and conflicts with the adjoining pipeline.

During 2021 and early 2022, the Department consulted extensively with the Applicant, Council and several government agencies including TfNSW. During this time, the Applicant provided supplementary information to address government agency concerns. This included additional information and updated design plans relating to traffic and access, updated reports relating to bushfire, biodiversity, flooding and Aboriginal culture. Amendments to the site design to account for the risks associated with Jemena's high pressure gas pipeline that traverses the site were also provided. All information provided was reviewed by the relevant government agencies, including Council, and made available on the Department's website.

All outstanding information required to finalise the Department's assessment was provided by April 2022. Following reviews of the RTS reports and supplementary information and the extensive consultation process undertaken, relevant government agencies recommended conditions for inclusion in any consent for the development.

Assessment

The Department's assessment of the application has fully considered all relevant matters under section 4.15 of the EP&A Act, the objects of the EP&A Act and the principles of ecologically sustainable development. The Department identified the key issues associated with the development related to traffic and access and biodiversity matters.

The roadwork surrounding the site is planned to undergo significant upgrades and changes as a result of the M12 Motorway project. The Department consulted closely with the Applicant, TfNSW and Council

to ensure the development could gain appropriate access to the future road network, while not impeding the construction of M12 Motorway project. The final access design will see a left in, left out access to the southbound lane of Wallgrove Road, with a deceleration lane on approach. The Applicant has agreed to work with TfNSW to upgrade the future Wallgrove Road, specifically relating to changes to line marking and widening. The Applicant has provided analysis in its RTS confirming the estate road's intersection will continue to have an acceptable level of service with the predicted traffic levels. The Department's assessment determined the traffic associated with the development could safely access the future surrounding road network and has recommended conditions requiring the Applicant to work closely with TfNSW and the M12 Motorway project team to ensure the detailed design of the intersection remains in accordance with TfNSW requirements and construction is scheduled taking into consideration the M12 Motorway project.

The development will result in some vegetation removal in order to create developable lots. The Department consulted with the Biodiversity and Conservation Division and worked with the Applicant to improve mitigation measures. The Applicant has proposed mitigation measures, including reuse of felled vegetation in the surrounding area, seed capture and landscaping using endemic species. The Department has recommended conditions of consent to offset biodiversity impacts through the NSW Biodiversity Offsets Scheme and measures requiring the Applicant to create a Landscape Management Plan to ensure protection and reuse opportunities of vegetation on site are considered and explored. With these conditions in place, the Department concludes the biodiversity impacts would be adequately minimised and offset.

The subject site is traversed by a high pressure gas pipeline, owned and operated by Jemena. The Department led consultation between the Applicant and Jemena to ensure the development's layout would not compromise the pipeline, nor introduce incompatible development near the pipeline. The final design saw changes to lot boundaries to align with Jemena's required sensitive development buffer, reducing the amount of lots within the buffer. The Department has recommended conditions that require the Applicant to prepare a Safety Management Study on the lots within the buffer and ensuring that future uses consider compatibility with the pipeline. The Department concludes that pipeline risk can be appropriately managed and considered in future development applications.

Summary

The Department's assessment concludes the impacts of the development can be mitigated and/or managed to ensure an acceptable level of environmental performance, subject to the recommended conditions of consent. In summary, the development would:

- provide a total of 151 construction jobs with the potential of 443 operational jobs once the lots are ultimately developed
- be consistent with the objectives of the relevant strategic planning framework, including the Greater Sydney Region Plan and the Western City District Plan, by releasing economic, developable land for a range of purposes, including tourism and recreation (subject to future development applications)
- adequately mitigate and offset impacts, including offsetting biodiversity impacts through the NSW Biodiversity Offset Scheme.

Consequently, the Department considers the development is in the public interest and is recommended for approval, subject to conditions.

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1 Introduction

1.1 The Department's Assessment

This report details the Department of Planning and Environment's (the Department) assessment of the State significant development (SSD) for the Elizabeth Drive Subdivision. The proposed development (the development) involves the subdivision of a site adjacent to Elizabeth Drive in the Western Sydney Parklands (WSP) into 12 lots, plus an internal estate road.

The Department's assessment considers all documentation submitted by AE Design Partnership Pty Ltd (the Applicant), including the original Environmental Impact Statement (EIS), amended EIS, Response to Submissions (RTS) and supplementary information, as well as advice and submissions received from government authorities, stakeholders and the public. The Department's assessment also considers the legislation and planning instruments relevant to the site and the development.

This report describes the proposed development, surrounding environment, relevant strategic and statutory planning provisions and the issues raised in submissions. The report evaluates the key issues associated with the development and provides recommendations for managing any impacts during construction and operation. The Department's assessment of the Elizabeth Drive Subdivision has concluded the development is in the public interest and should be approved, subject to conditions.

1.2 Development Background

The Applicant is seeking development consent to subdivide a site into 12 lots (11 developable lots, one stormwater lot) and an associated internal estate road at Cecil Park in the Fairfield local government area (see **Figure 1**). The development proposes subdivision works, roadworks, earthworks, landscaping and the provision of ancillary infrastructure for stormwater and services. While potential land uses are identified in the application and have been considered as part of the assessment, approval is not sought for these.

The site is privately owned and located within the WSP which is managed by the Western Sydney Parklands Trust (WSPT). The WSPT is a self-funded government authority, responsible for developing the WSP into a multi-use urban parkland for the region of Western Sydney, with the aim of doing this through introducing recreational, entertainment and tourist facilities in the Parklands.

Amended Development Application

The Applicant originally sought consent for a 14 lot subdivision, designed for indicative future land uses to include light industrial, highway service centre, industrial retail outlet and hotel or motel accommodation (subject to future development applications). The application and accompanying EIS were exhibited in early 2019 with 10 public submissions (seven of which objected to the proposal) received during this time. Key issues raised related to indicative land use conflicts, access and traffic impacts and biodiversity degradation.

In September 2019, the Applicant was approached by Transport for NSW (TfNSW) regarding compulsory acquisition of the northern part of the site for the M12 Motorway project (see **Section 1.4**). As such, in August 2020, the Applicant advised it had changed the layout of the development and sought agreement to amend the development application (DA). On 25 August 2020, the Acting Director, Industry Assessments as delegate of the then Minister for Planning and Public Spaces, agreed to the submission of an amended DA under clause 55 of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000), as in force at the time. This assessment report assesses the key issues associated with the amended proposal.

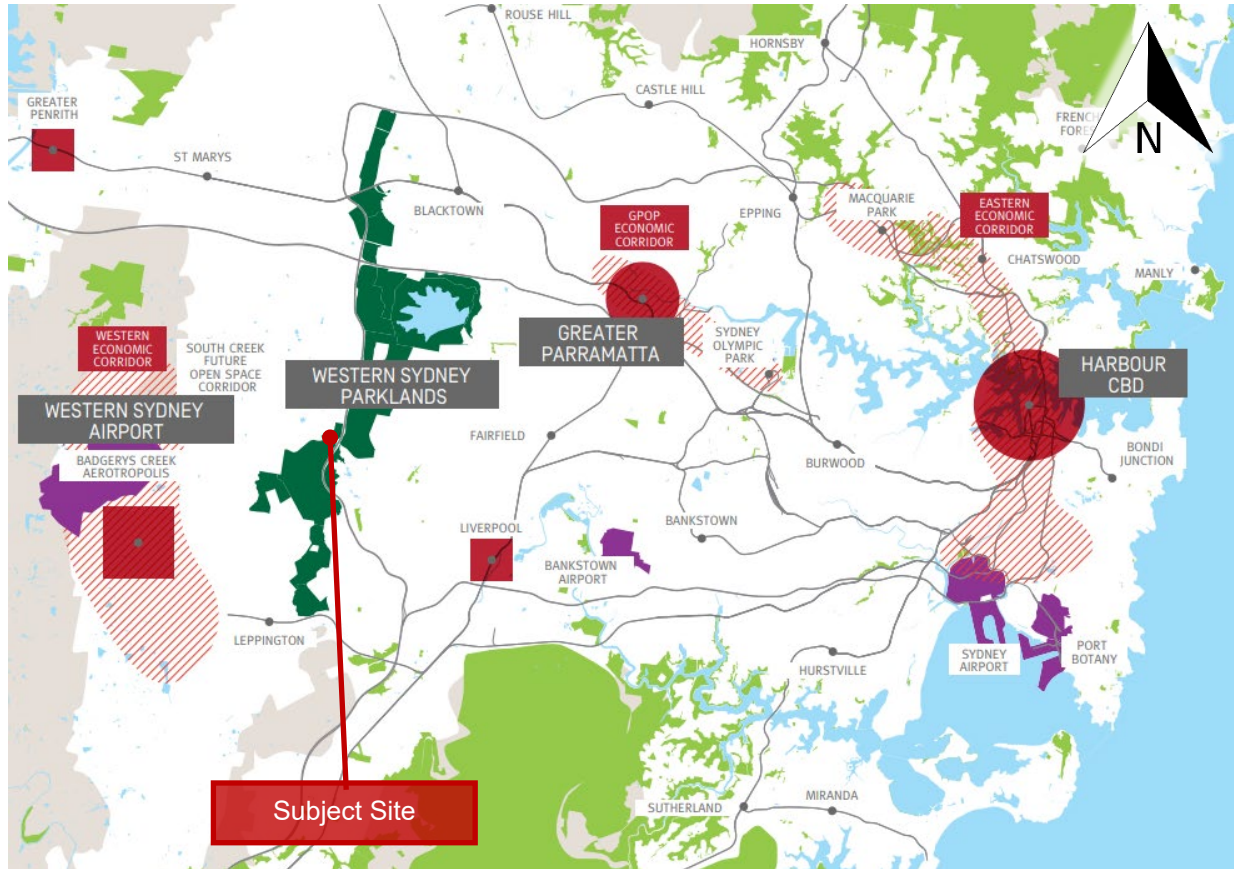


Figure 1 | Regional Context Map

1.3 Site Description

The subject site comprises 7.3 hectares (ha) of unzoned land located at 1,111 Elizabeth Drive, Cecil Park (site) (see Figure 2) and is legally described as Lots 2 and 4 DP 2954. It is located approximately 34 kilometres (km) west of the Sydney central business district and approximately 16 km south west of the Parramatta central business district. The Western Sydney Aerotropolis is located approximately 3 km west the site. The site is currently accessed from Elizabeth Drive.

While the site comprises 7.3 ha, the development itself only covers approximately 4.7 ha. The remaining 2.6 ha of the site is set to be compulsorily acquired by TfNSW for the future Wallgrove Road corridor, part of the M12 Motorway project (see **Section 1.4**). It is noted at the time of writing this report, the land has not yet been formally acquired by TfNSW.

The site currently contains a dwelling and several outbuildings associated with the use of the site as a residential use, with some vegetation cover in the northern and western parts of the site. The site has a natural fall towards the northern corner of the site, where a dam is located. Historically the site was used for pastoral and agricultural purposes, and more recently, rural residential uses.

Jemena also owns and operates a high pressure gas pipeline that runs through the south eastern side of the site.



Figure 2 | Site and Surrounds

1.4 Surrounding Land Uses

The surrounding area comprises a mix of rural residential, agriculture and some industrial land uses located to the north west of the site, including CSR's Cecil Hills Brickworks Facility (see **Figure 2**). These lots fall outside of the WSP, being zoned Primary Production (RU1) and Primary Production Small Lots (RU2) under the Fairfield Local Environmental Plan 2013. The closest sensitive receiver is a residential use which directly adjoins the property to the north west.

The site currently gains access from Elizabeth Drive, which is a State Road, connecting to the M7 Motorway and Wallgrove Road to the east, continuing into the Western Sydney Aerotropolis area to the west. The site also has frontage to Cecil Road, a local access road along the western site boundary.

1.5 Other Approvals

M12 Motorway (SSI-9364)

On 23 April 2021, the then Minister for Planning and Public Spaces granted infrastructure approval for the M12 Motorway project (SSI-9364), a new 16 km multi-lane road from the M7 Motorway to the Northern Road at Luddenham and associated works. As part of these works, significant changes to roads within the local area are planned (see **Figure 3**). In relation to the subject site, these changes can be summarised as:

- new east-west motorway (M12) south of existing Elizabeth Drive
- new intersection between proposed M12 and existing M7 immediately south west of the site
- realignment of Wallgrove Road from east of the site to north and west of the site, connecting with Elizabeth Road through a new signalised intersection to the north west of the site.

The above roadworks result in Wallgrove Road shifting from connecting to Elizabeth Drive near the M7, to now intersecting with Elizabeth Drive at the western corner of the subject site. It is noted detailed

design of the M12 Motorway project was released after the lodgement of the initial DA and as such is now addressed in the amended DA.

The M12 project traverses the most densely vegetated section of the site, with this vegetation proposed to be removed as part of its construction. The M12 Motorway project is expected to be completed in the mid 2020s, with some preliminary works having begun on the western portion of the road.

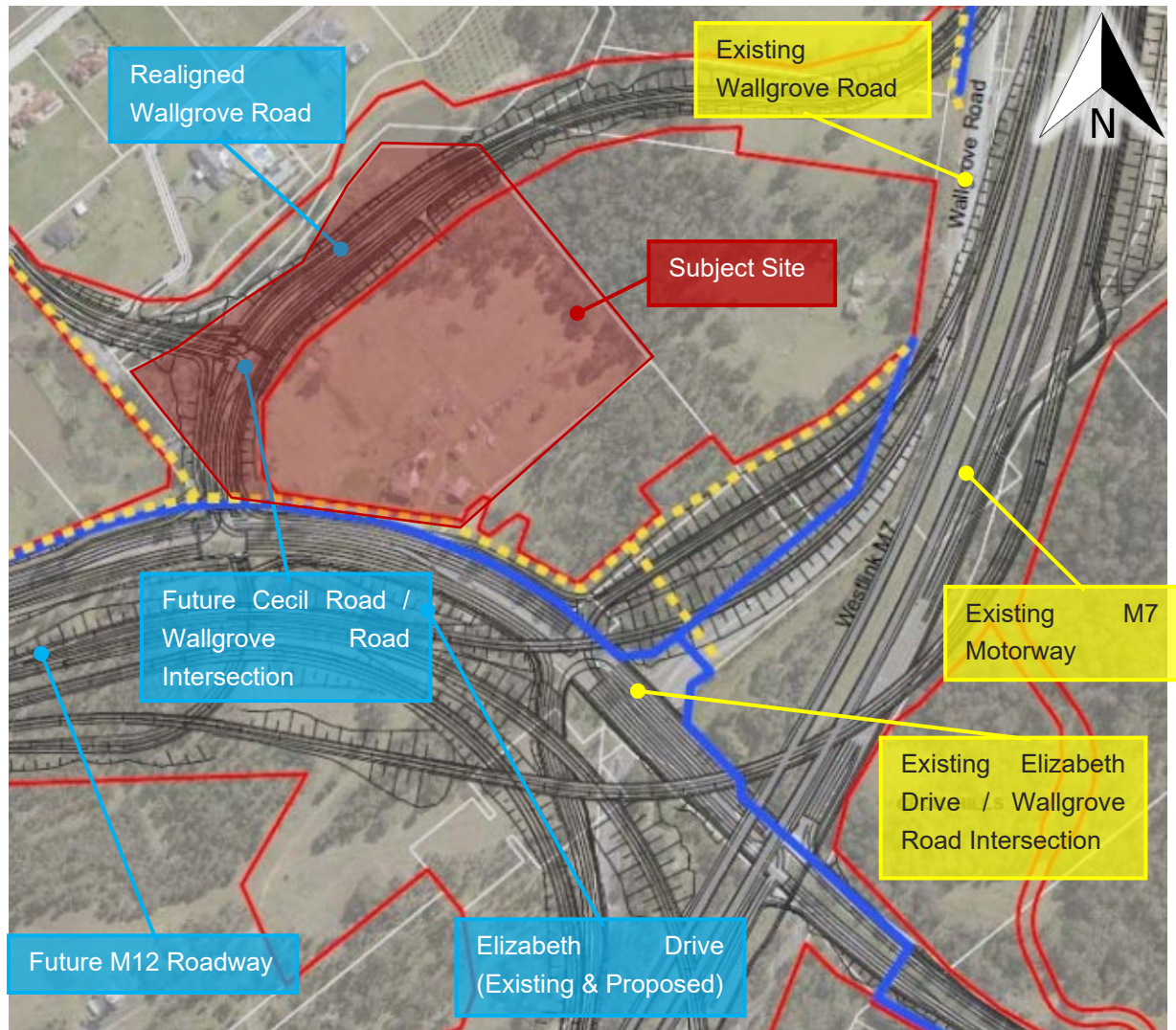


Figure 3 | Proposed Road Upgrades

2 Development

2.1 Amended Development

The assessment undertaken herein is based on the amended DA which seeks consent for the subdivision of the site into 12 lots, comprising 11 developable lots and one stormwater lot, including associated infrastructure, an estate road and landscaping and the provision of ancillary infrastructure for stormwater and services. Although the development does not seek approval for land uses, the Applicant has designed and assessed the project considering future land uses (see **Section 2.4**).

The major components of the proposed development are summarised in **Table 1** and shown in **Figure 4** and **Figure 5**, and described in full in the amended EIS and RTS report included in **Appendix A**.

Table 1 | Main Components of the Development

Aspect	Description
Development summary	Subdivision into 12 allotments, including associated works for demolition of existing structures, clearing of vegetation, landscaping, stormwater and civil and road works.
Site area	- total site is approximately 7.3 ha in area - development footprint of approximately 4.7 ha - proposed acquisition of approximately 2.6 ha of site by TfNSW for M12 Motorway project
Demolition	demolition of existing structures (dwelling house and associated shed and outbuilding structures)
Subdivision	Subdivision of existing lot into 12 lots and internal estate road: - Lot 1 – 2,511 square metres (m²) - Lot 2 – 2,511 m² - Lot 3 – 3,879 m² - Lot 4 – 3,727 m² - Lot 5 – 6,811 m² - Lot 6 – 2,831 m² - Lot 7 – 2,087 m² - Lot 8 – 2,087 m² - Lot 9 – 2,087 m² - Lot 10 – 5,084 m² - Lot 11 – 4,343 m² - on-site detention basin lot – 3,419 m² - internal road
Earthworks, civil works and services	- bulk earthworks across the site, comprising a fill balance of 3,191 cubic metres (m³) - site services and infrastructure, including a detention basin in the north east corner
Vegetation clearing	Clearing of: 3.05 ha of exotic vegetation and grasslands 1.15 ha of native vegetation

Aspect	Description
Traffic	Projected once all lots are developed: • 5,680 vehicles per day including 568 heavy vehicles • 568 vehicle trips in the peak hour
Road, access and intersection works	• primary vehicle access via left in left out intersection on realigned Wallgrove Road • construction access to be coordinated with M12 Motorway team • installation of internal estate road to service all lots, dedicated to Council
Landscaping	• landscaping works to areas outside of development footprints on all lots, using local native species
Capital investment value	• \$10.51 million
Employment	• approximately 151 full-time equivalent construction jobs and potential for 443 operational jobs once all sites are developed

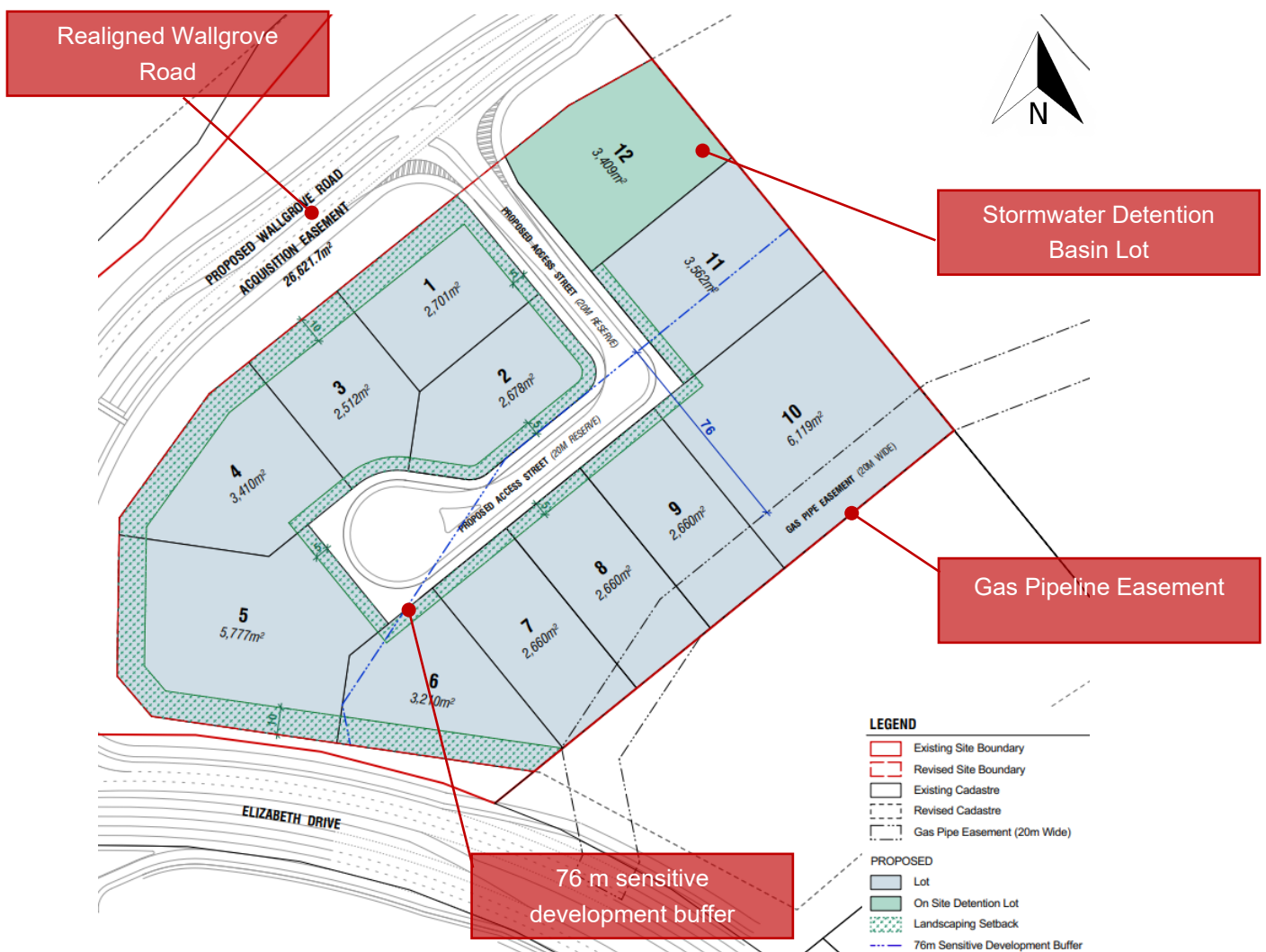


Figure 4 | Development Layout

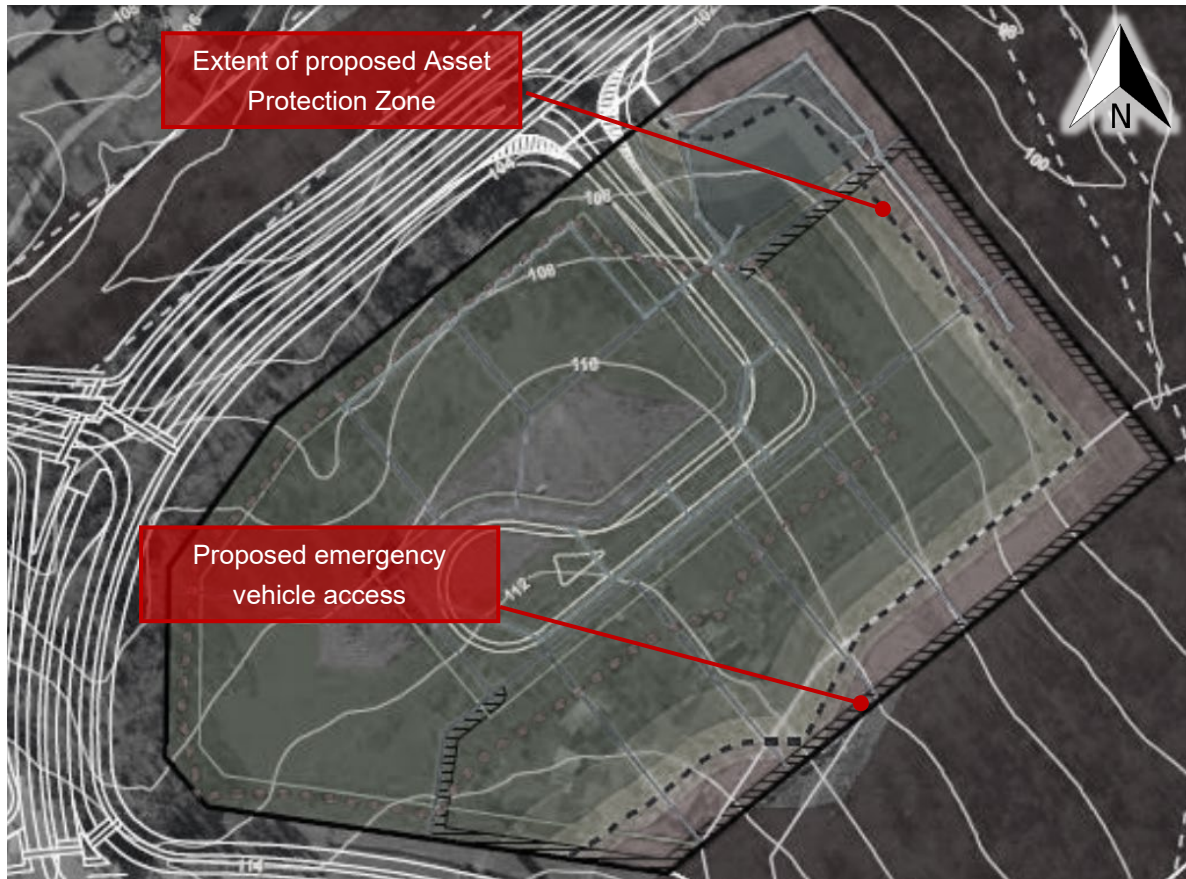


Figure 5 | Proposed Bushfire Mitigation Measures

2.2 Uses and Activities

It is noted the Applicant does not seek approval for specific land uses as part of this DA. Notwithstanding, the Applicant has designed the proposal to facilitate future development that may include tourism, recreation and community uses, subject to future use DAs.

2.3 Applicant's Need and Justification for the Development

The proposal will introduce new subdivided, developable land into the area. The Applicant has justified the need for the development by highlighting the need for tourism and recreation uses in the surrounding area, noting the development has been designed to facilitate these types of uses in the future. The Applicant noted that suitable developable land for these uses was in short supply in the surrounding area.

The Applicant identifies this site as ideal in providing developable land, given its close transport links to the M7 Motorway, Elizabeth Drive and future M12 Motorway.

The Applicant has also noted generating additional employment opportunities in Western Sydney, including 151 full time equivalent construction jobs. The development would therefore deliver an increased supply of land that is suitable for a range of tourism and recreation uses to utilise.

2.4 Related Development

The development integrates with and relies on the construction of the M12 Motorway project to gain access to the site. As discussed in **Section 1.5**, the project will require the realignment of Wallgrove Road

to the west of the development, taking part of the existing site. To facilitate this, the development is designed to not conflict with the realigned Wallgrove Road, dedicating the required portion of the site to the M12 Motorway project.

The M12 Motorway project has begun preliminary construction with completion expected in the mid-2020s.

3 Strategic Context

3.1 The Greater Sydney Region Plan – A Metropolis of Three Cities

The vision of the Greater Sydney Region Plan 2018, A Metropolis of Three Cities (Region Plan) falls within the integrated planning framework for Sydney (see **Figure 6**) and seeks to meet the needs of a growing and changing population by transforming Greater Sydney into a metropolis of three cities – the Western Parkland City, the Central River City and the Eastern Harbour City. It brings new thinking to land use and transport patterns to boost Greater Sydney’s liveability, productivity and sustainability by spreading the benefits of growth.

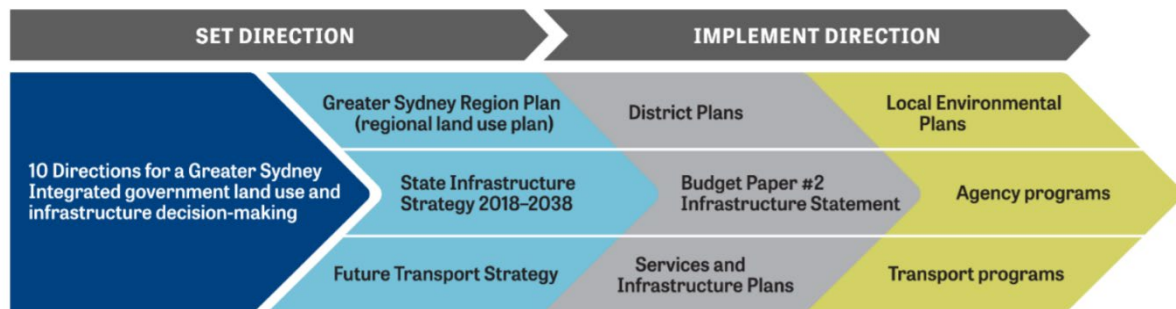


Figure 6 | Integrated Planning for Greater Sydney

The development is located within the Western Parkland City and the Metropolitan Rural Area (MRA) (parts of metropolitan Sydney that have a rural character with high environmental value) and would assist in achieving a number of key strategies and objectives identified in the Region Plan, by preparing the site for future land uses. Specifically, it would:

- identify and protect land for tourism purposes (Objective 24)
- promote more tourism and recreation opportunities linked to the Western Sydney Airport in the MRA (Objective 29)
- support opportunity for alternative tourism destinations from the Eastern Harbour City (Strategy 24.1).

3.2 Western City District Plan 2018

The Western City District Plan is a 20-year plan to manage growth in Western Sydney in the context of economic, social and environmental matters to achieve the 40-year vision for Greater Sydney established by the Region Plan. It is a guide for implementing the Greater Sydney Region Plan at a district level.

The development would also assist in achieving a number of the Planning Priorities set out in the Western City District Plan, by setting up the site to facilitate a number of different land uses. Specifically, it would:

- support the growth of social infrastructure through preparing land for tourism and recreation facilities (Planning Priority W3)
- manage and plan tourism accommodation and tourism land within proximity to the Western Sydney Airport (Planning Priority W8).

3.3 Western Sydney Parklands Plan of Management 2030

The WSP is a major social and recreational facility in Western Sydney and is strategically managed by the Western Sydney Parklands Plan of Management 2030 (POM). The POM breaks the WSP up into 16 precincts, setting strategic directions for the use, opportunities and key management priorities for each precinct.

The site is privately owned land and is located within an area identified in the POM as Precinct 11 - Cecil Park North of the WSP. The POM sees the Cecil Park North precinct as having opportunity for enhancing environmental values, while allowing for the construction of the M12 and associated infrastructure. The POM seeks to investigate tourism uses, recreation or community uses on the remaining lands, while increasing activation of the precinct,

The development has been designed to cater for future land uses that include recreation, tourism and community uses, aligning with those identified in the POM, subject to future DAs. The development also makes provisions for the M12 Motorway project and associated upgrades by ensuring the subdivision is planned around this project.

Further, the development footprint does not encroach on the majority of the POM's mapped Bushland Corridor and Environmental Conservation Area (see **Figure 7**), allowing for the protection of the Precinct 11 - Cecil Park North's environmental values.

As such, the Department considers the development to be consistent with the key principles outlined in the POM.



Figure 7 | Cecil Park North Precinct

4 Statutory Context

4.1 State Significance

The proposal is State significant development pursuant to section 4.36 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) because it is development within the Western Parklands with a capital investment value of more than \$10 million, meeting the criteria in Clause 5 of Schedule 2 in State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP), as in force at the time.

4.2 Permissibility

The site is located in the WSP. After the commencement of State Environmental Planning Policy (Western Sydney Parklands) 2009 (WSP SEPP), all previously zoned lands within the WSP became unzoned. In accordance with clause 11(2) of the WSP SEPP, subdivision is permitted with development consent as an innominate land use.

While the future land uses do not form part of this application, the potential uses identified by the Applicant would be permissible subject to further development consent.

4.3 Consent Authority

The Minister for Planning (the Minister) is the consent authority for the development under section 4.5 of the EP&A Act. On 9 March 2022, the Minister delegated the functions to determine SSD applications to the Director, Industry Assessments where:

- the application has not been made by a person who has disclosed a reportable political donation under section 10.4 of the EP&A Act
- there are less than 15 public submissions (other than a council) in the nature of objections, and
- Council has not made a submission by way of objection under the mandatory requirements for community participation listed under Schedule 1 of the EP&A Act.

Of the 10 public submissions received, seven objected to the development. Council did not object to the development. No reportable political donations were made by the Applicant in the last two years and no reportable political donations were made by any persons who lodged a submission.

Accordingly, the application can be determined by the Director, Industry Assessments under delegation.

4.4 Other Approvals

Should development consent be granted, other approvals may be required in order to carry out the development. Section 4.42 of the EP&A Act lists a number of approvals that cannot be refused if required to carry out the development and that must be given in a manner that is substantially consistent with any development consent.

In its advice, the Environment Protection Authority (EPA) advised the development does not constitute a scheduled activity under the *Protection of the Environment Operations Act 1997* (POEO Act), therefore an Environment Protection Licence is not required.

TfNSW advised in its submission that the proposed changes to the future Wallgrove Road intersection with the estate road require consent from TfNSW under the *Roads Act 1993* (Roads Act). TfNSW recommended design amendments for the intersection works and advised that the Applicant is required to enter into a Works Authorisation Deed with the TfNSW for the works. The Department has incorporated TfNSW's requirements into the recommended conditions.

The Department has consulted with and considered the advice of the relevant public authorities in its assessment of the development and included suitable conditions in the recommended consent.

4.5 Mandatory Matters for Consideration

Section 4.15 of the EP&A Act sets out matters to be considered by a consent authority when determining a development application. The Department's consideration of these matters is set out in **Section 6** and **Appendix G**.

Under section 4.15 of the EP&A Act, the consent authority, when determining a DA, must take into consideration the provisions of any environmental planning instrument (EPI) and draft EPI (that has been subject to public consultation and notified under the EP&A Act) that apply to the proposed development.

Since lodgement of the DA, 45 of NSW State Environmental Planning Policies have been consolidated into 11 policies. The consolidated State Environmental Planning Policies (SEPP) commenced on 1 March 2022, with the exception of State Environmental Planning Policy (Housing) 2021, which commenced on 26 November 2021.

The SEPP consolidation does not change the legal effect of the repealed SEPPs, as the provisions of these SEPPs have simply been transferred into the new SEPPs. Further, any reference to an old SEPP is taken to mean the same as the new SEPP. For consistency, the Department has considered the development against the relevant provisions of several key EPIs as in force when the DA was lodged, including:

- State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP)
- State Environmental Planning Policy (Western Sydney Parklands) 2009 (WSP SEPP)
- State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)
- State Environmental Planning Policy No. 19 – Bushland in Urban Areas (SEPP 19)
- State Environmental Planning Policy No. 33 – Hazardous and Offensive Development (SEPP 33)
- State Environmental Planning Policy No. 55 – Remediation of Land
- Draft State Environmental Planning Policy (Remediation of Land)

Development Control Plans (DCPs) do not apply to SSD under Clause 11 of the SRD SEPP. However, the Department has considered the relevant provisions of the Fairfield City Wide DCP 2013 in its assessment of the development in **Section 6** of this report.

Detailed consideration of the provisions of all EPIs that apply to the development is provided in **Appendix D**. The Department is satisfied the proposed development generally complies with the relevant provisions of these EPIs.

4.6 Public Exhibition and Notification

In accordance with section 2.22 and Schedule 1 to the EP&A Act, the development application and any accompanying information are required to be made publicly exhibited for at least 28 days. The application was placed on public exhibition from **24 January 2019** until **20 February 2019**. Details of the exhibition process and notifications are provided in **Section 5**.

4.7 Objects of the EP&A Act

In determining the application, the consent authority must consider whether the development is consistent with the relevant objects of the EP&A Act. These objects are detailed in section 1.3 of the EP&A Act. The Department has fully considered the objects of the EP&A Act, including the

encouragement of Ecologically Sustainable Development (ESD), in its assessment of the application (see **Table 2**).

Table 2 | Considerations Against the Objects of the EP&A Act

Object	Consideration
1.3 (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,	The development would ensure the proper management and development of land identified as being suitable for the purposes of tourism and associated uses in the Parklands POM. The development would also promote social and economic welfare in the community by generating 151 construction jobs and the potential for 443 jobs in the area once fully developed.
1.3 (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,	The Department has considered the ESD principles in its assessment of the development. The development includes several measures to deliver ESD, including planting of native landscaping throughout the estate road and the inclusion of water sensitive urban design measures as part of the stormwater management system. The proposal will release developable economic land in Western Sydney and facilitates the M12 Motorway project, improving access and connectivity to the Western Sydney Aerotropolis, Western Sydney's high skill jobs hub. The Department's assessment has considered all socio-economic and environmental considerations and concludes the development would avoid potentially serious or irreversible environmental damage while providing tangible socio-economic benefits.
1.3 (c) to promote the orderly and economic use and development of land,	The development promotes orderly and economic development of land by preparing the site for future development, having consideration to site constraints for uses such as tourism and recreation (subject to future DAs), and providing a planned, safe and efficient access to these future developments. The development also facilitates and plans around the M12 Motorway route, in line with TfNSW's Future Transport Strategy 2056 and Western Sydney Infrastructure Plan, by improving access and freight links to the Western Sydney Airport and Western Sydney Priority Growth Area. The development would also provide economic benefit through job creation and infrastructure investment.
1.3 (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,	The development has been designed to avoid and minimise impacts on native vegetation and biodiversity. Clearing of native vegetation across the site would be offset by the purchase and retiring of ecosystem credits in accordance with the NSW Biodiversity Offsets Policy. It is noted the majority of clearing on site will occur under the M12 Motorway project (SSI-9364). The Department's assessment in Section 6 of this report demonstrates with the implementation of the recommended conditions of consent, formed in consultation with the Department's Environment, Energy and Science Group, the

Object	Consideration
	impacts of the development can be mitigated and/or managed to ensure the environment is protected.
1.3 (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),	The Department's assessment in Section 6 of this report has recommended conditions of consent to ensure any potential impacts on Aboriginal cultural heritage are appropriately managed. None of the remaining buildings and structures on the site are considered to have any heritage significance and the site has been assessed as having little or no non-Aboriginal archaeological significance. The development is unlikely to have an impact on any items of heritage significance.
1.3 (g) to promote good design and amenity of the built environment,	The proposed internal road layout has been designed in accordance with the TfNSW and Council's road design requirements. Further, the Applicant has committed to carrying out landscaping to the estate road and non-developable area of the lots, prioritising species endemic to the locality.
1.3 (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,	The Department has recommended a number of conditions of consent to ensure that construction and maintenance is undertaken in accordance with applicable legislation, guidelines, policies and procedures (refer to Appendix B).
1.3 (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,	The Department publicly exhibited the development as outlined in Section 5 , which included consultation with Council and other relevant public authorities and consideration of their responses.
1.3 (j) to provide increased opportunity for community participation in environmental planning and assessment.	The Department publicly exhibited, and invited submissions on the application as outlined in Section 5 , which included notifying adjoining landowners, placing a notice in the press and displaying the application on the Department's website, at the Department's Sydney office and Council's office.

4.8 Ecologically Sustainable Development

The EP&A Act adopts the definition of ESD found in the *Protection of the Environment Administration Act 1991*. Section 6(2) of that Act states that ESD requires the effective integration of economic and environmental considerations in decision-making processes and that ESD can be achieved through the implementation of:

- (a) the precautionary principle
- (b) inter-generational equity
- (c) conservation of biological diversity and ecological integrity
- (d) improved valuation, pricing and incentive mechanisms.

The Department has carried out a detailed assessment of the development and the Applicant's supporting technical reports to determine its potential environmental impacts. Where potential impacts have been identified, mitigation measures and environmental safeguards have been recommended.

While the development requires removal of 1.15 ha of native vegetation, the development would:

- remove invasive exotic species (such as Purpletop and Rhodes Grass) from the site
- ensure revegetation works make use of species endemic to the area
- make use of water sensitive design in the design of the development's stormwater management system
- offset the removal/disturbance of native vegetation through the purchase and retiring of ecosystem credits in accordance with the NSW Biodiversity Offsets Policy for Major Projects.

4.9 Legislative Amendments

The Department notes that since the lodgement of the DA, the EP&A Regulation 2000 has been repealed by the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021). Under Schedule 6(3) of the 'savings, transitional and other provisions' of the EP&A Regulation 2021, the 2000 Regulation continues to apply (instead of the new EP&A Regulation 2021) to a DA made but not finally determined before 1 March 2022. As the application was lodged on 8 January 2019, the application has been assessed having regard to the requirements of the EP&A Regulation 2000.

4.10 Biodiversity Development Assessment Report

Under section 7.9(2) of the *Biodiversity Conservation Act 2016* (the BC Act), SSD applications are to be accompanied by a Biodiversity Development Assessment Report (BDAR) unless the Planning Agency Head and the Environment Agency Head determine that the development is not likely to have any significant impact on biodiversity values. The Applicant submitted a BDAR as part of the SSD application.

The Department's consideration of the BDAR, including the potential impact of the development upon biodiversity values at the site, is provided in **Section 6** of this report.

4.11 Commonwealth Matters

Under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), assessment and approval is required from the Commonwealth Government if a development is likely to impact on a matter of national environmental significance (MNES), as it is considered to be a 'controlled action'. The amended EIS's BDAR for the development included a preliminary assessment of the MNES in relation to the development and concluded the development would likely not impact on any of these matters and is therefore not a 'controlled action'. However, the BDAR recommended the Applicant consult with the Commonwealth Government to confirm this.

5 Engagement

5.1 Original Application (2019)

The Applicant, as required by the Planning Secretary's Environmental Assessment Requirements, undertook consultation with relevant local and State authorities. The Department undertook further consultation with these stakeholders during the exhibition of the EIS and throughout the assessment of the application. These consultation activities are described in detail in the following sections.

Consultation by the Applicant

The Applicant undertook a range of consultation activities throughout preparation of the EIS including discussions with Council and Western Sydney Parklands Trust and engagement with State government authorities.

Consultation by the Department

After accepting the DA and EIS for the application, the Department:

- made it publicly available from 24 January 2019 until 20 February 2019:
 - on the Department's website
 - at the Department's then head office (320 Pitt Street, Sydney)
 - at Fairfield City Council (86 Avoca Rd, Wakeley)
- notified landowners in the vicinity of the site about the exhibition period by letter
- notified and invited comment from relevant State government authorities and Council by letter
- advertised the exhibition in the Fairfield Champion and Fairfield Advance.

Submissions and Advice

During the exhibition period, the Department received 10 submissions from the public (two special interest groups, one private business and seven individuals) and advice from 12 government authorities, including Council. One public submission was in support of the proposal, if traffic improvements occur, seven public submissions objected to the proposal and two public submissions provided comments only. All of the community members who made a submission live within 5 km from the proposal.

A summary of the submissions and government advice is provided. A link to the full copy of the submissions and advice is provided in **Appendix A**.

Public Submissions

The Department received seven public submissions on the original proposal, with six of these objecting to the proposal and a single submission supporting the proposal if traffic improvements occur.

Key issues raised within the public objections related to traffic impacts, suitability of the site, loss of vegetation and habitat, water and wastewater serviceability and flood and stormwater impacts. Other issues raised included conflicts with the POM and future strategic planning schemes within the Western Sydney area.

A summary of the community's views and how these have been addressed in the report and/ or through recommended conditions is provided in **Appendix D**.

It is noted a late submission was made by the Member for Mulgoa, which noted support for the development due to the increase in employment and services the proposal would bring.

Key Issues - Public Authorities

The Department received advice from 12 public authorities relating to the original proposal. These are summarised below.

Council did not object to the proposal, however raised concerns regarding WSP's acquisition of the land, the impact retail or business uses may have on the city's other retail centres and changes to Elizabeth Drive. Council supported the proposed remediation works, recommending an unexpected finds protocol be developed.

RMS noted that its concurrence was required in relation to the construction of a deceleration lane along Elizabeth Drive, which had not been granted. RMS also raised concerns around the roundabout and proposed access from Elizabeth Drive. It was suggested access from Cecil Road should be explored and an investigation as to the impact the development would have on surrounding intersections. It was also noted that RMS was undertaking a study into the upgrading of Elizabeth Drive and had vested a strip of land on the property.

TfNSW raised several concerns relating to the roadworks proposed on Elizabeth Drive, and recommended consultation with RMS. Concerns were also raised about the manoeuvrability of large vehicles within the site, clarification on the proposed shared path and its conflict with the M7 shared path and recommended a Construction Traffic and Pedestrian management plan condition.

WSPT raised concerns the site was not located within a defined business hub and is inconsistent with the POM. WSPT also raised concerns that the subdivision would result in a more costly acquisition process and that the development would not contribute to the running costs of the WSP.

The then **Office of Environment and Heritage** (OEH) requested the flood assessment be amended to include further information on a range of flood behaviours. The OEH also raised concerns relating to adverse impacts the development would have on biodiversity value on the site.

Rural Fire Service (RFS) raised concerns regarding the future use of the site for motel or tourist accommodation, noting it is a special fire protection purpose and is required to obtain a Bush Fire Safety Authority. Concerns were also raised regarding the need for a 50 m (metre) Asset Protection Zone (APZ) and single access point to the site.

Office of Strategic Lands raised concerns relating to the future acquisition of the land.

Sydney Water requested further details on the staging of the development in relation to water demand. Concerns were also raised regarding the wastewater servicing, noting the pump-out system proposed was not supported. Sydney Water requested the Applicant consult with them further.

The **EPA** advised the proposal does not constitute a scheduled activity and provided no further comment.

WaterNSW raised no concerns.

NSW Heritage Council raised no concerns.

Department of Primary Industries noted approval from the Natural Resources Access Regulator must be obtained prior to any proposed changes to groundwater or decommissioning of the existing dam. It also noted a Land Use Conflict Assessment was not undertaken.

Special Interest Groups/Private Businesses

The Department received two responses from special interest groups, both being utility providers, and a single submission from a local private business.

Endeavour Energy had no objection.

Jemena noted that any future developments within close proximity to its pipeline easement boundary (located on the south eastern side of the site) would require a Safety Management Study. Any sensitive development within 76 m of the boundary would require additional protection measures.

CSR, a private business located on Cecil Road, objected to the proposal. It raised concerns about potential conflict with future strategic planning and infrastructure provision in the area. CSR also raised concerns with biodiversity, traffic and access, conflict with the POM and reverse amenity impacts the CSR facility may have on the occupants of the development.

5.2 Amended Development Application (2020)

Due to the number of issues raised in submissions on the original EIS and planned acquisition of part of the site by TfNSW the Applicant revised the development and submitted an amended DA and amended EIS in October 2020. The amendments to the development are described in **Section 2** of this report.

Consultation by the Department

After accepting the amended DA and amended EIS, the Department:

- made it publicly available on the Department's website
- notified and invited comments from relevant government agencies and Council.

Submissions and Advice

The Department received advice from seven public authorities and a single special interest group, being a utility supplier, on the amended DA.

Key Issues - Public Authorities

Council noted its major concerns regarding centre viability and access had been addressed. Council did note WSPT and TfNSW should be consulted regarding their respective assessment areas and requested a traffic management plan and a road safety audit. It was noted biodiversity credits would also be required and recommended the development be conditioned to not include standalone retail uses in future DAs.

TfNSW (now including RMS) raised concerns regarding the access proposed to the realigned Wallgrove Road in safety terms and suggested it be moved further north. A road safety audit, traffic modelling, pedestrian access details and a swept path analysis were also requested.

Biodiversity & Conservation Division (BCD) (formerly the OEH) noted its initial concerns regarding flooding had not been appropriately addressed and requested an updated Flood Impact Risk Assessment (FIRA) for the updated proposal, having regard to the realigned Wallgrove Road. Issues relating to vegetation mapping and surveys were also raised. BCD recommended seven conditions requiring the Applicant to carry out a fauna pre-clearance survey, reuse of native vegetation, and to prepare a landscape management plan.

EPA did not object, advising it had no comment on the development, including in regard to land contamination.

Heritage NSW raised concerns over a subject Aboriginal site being mapped incorrectly in the Applicant's relevant Aboriginal reports, requesting these reports be updated with correct data.

WSPT raised concerns regarding the use of the site as a 'Tourism Hub,' in an area not designated for one in the POM. Concerns relating to consistency with the WSP SEPP and POM were also expressed, noting that any approval for this type of development on site may result in the WSPT having more difficulty in acquiring the site.

RFS requested the Applicant address issues including a perimeter road, an APZ, restriction of land uses and appropriateness of a service centre on the site.

Special Interest Groups/Private Businesses

Jemena raised concerns regarding sensitive development being within close proximity to its gas pipeline, recommending sensitive developments be located at least 76 m away from Jemena's pipeline easement. Jemena noted any future sensitive developments within 766 m of the pipeline would require a Safety Management Study be undertaken for the purpose of identifying, considering and addressing the implications to the pipeline as well as to the community and environment

Consequently, the Department requested the Applicant provide an RTS, addressing the issues raised by the relevant public authorities. In addition, the Department also requested further clarification in relation to the management of future sensitive land uses and timing in relation to the Wallgrove Road realignment.

5.3 Response to Submissions (Amended DA)

On 30 July 2021, the Applicant provided an RTS to respond to the issues raised by the Department, Council and public authorities on the amended DA (see **Appendix B**).

The RTS was supported by the following revised documentation and additional information in response to the matters raised during the exhibition:

- minor realignment of subdivision boundaries to align with the 76 m buffer zone of the high-pressure pipeline
- updates to potential future land uses to reflect the restrictions required by Jemena
- updates to the specialist reports and attachments
- updated intersection treatment
- further detail on the construction process
- a response to issues raised by WSPT reiterating that ultimate land uses will be subject to future DAs.

The RTS was made publicly available on the Department's website and was provided to key government authorities to consider if it adequately addressed the issues raised. A summary of the government authority responses is provided below:

Council raised concerns relating to the recreation facility (major) use and reiterated its concerns relating to impacts on existing and planned retail centres if certain uses were approved in the future. It also raised further concerns relating to traffic generation, access, the dedication of the estate road and recommended a revised landscape plan to ensure locally endemic species are used.

TfNSW advised the proposal still did not meet its requirements and invited the Applicant to liaise with it directly.

BCD raised no further concerns, recommending conditions stated in its previous submission.

Heritage NSW recommended the Department request a final stakeholder approved ACHAR, though noted this would not require referral back to Heritage NSW.

Jemena referred the Department to its earlier correspondence.

WSPT recommended the Department consider mechanisms to restrict the end uses to ensure they are for tourism and associated facilities, including food and drink, noting its continued concern with biodiversity impacts.

RFS raised no further concerns, recommending several conditions relating to the restriction of land uses through the subdivision certificate, requiring the Applicant to prepare a plan of management to address *Planning for Bush Fire Protection 2019*, setting restrictions on vegetation and the requirement of a perimeter road.

Additional Information

On 29 November 2021, the Applicant responded to the outstanding issues raised by Council and TfNSW. The response included detailed drawings of the proposed site access intersection which resulted in the intersection changes to a left in left out arrangement and confirming the estate road was proposed to be dedicated to Council.

Council and TfNSW were invited to comment on the additional information provided.

Council advised it had several outstanding concerns about details of the drawings and traffic generation and impacts on the local estate road.

TfNSW advised it had further concerns relating to sight distances, deceleration lane lengths and the width and chevrons proposed at the intersection.

Over the period of late 2021 and early 2022, the Department facilitated extensive consultation between the Applicant, TfNSW and Council to resolve the above outstanding issues relating to traffic and access. This resulted in design refinement and further information being submitted, with Council advising it had no further issues and recommending conditions of consent in February 2022. TfNSW provided recommended conditions in April 2022. This is discussed in greater detail in **Section 6.1**.

6 Assessment

The Department has considered the amended application, the issues raised in the submissions, the Applicant's RTS and supplementary information in its assessment of the development. The Department considers the key assessment issues are:

- access, traffic and parking
- biodiversity.

A number of other issues have also been considered. These issues are considered to be minor and are addressed in **Table 3** under **Section 6.3**.

6.1 Access, Traffic and Parking

The development will create 11 developable lots and a new estate road which will increase traffic movements to and from the site once all lots are ultimately developed, potentially impacting the efficiency of the surrounding local and regional road network.

Access

The site currently gains access off Elizabeth Drive, classified as a State road. To facilitate the development amongst the significant planned changes to the surrounding road network, the Applicant proposes to construct a new estate road, which gains access to the regional road network via an intersection with the future Wallgrove Road to the northwest of the site. The estate road will service all 11 developable lots and is proposed to be dedicated to Council.

The Applicant confirmed the new internal road will be designed in accordance with Council's requirements for commercial style subdivisions and would be capable of servicing up to a 19 m semi-trailer vehicle.

Both Council and TfNSW raised concerns with the proposed location of the access off the future Wallgrove Road given its proximity to the future Wallgrove Road / Cecil Road intersection, it being located on a bend of the road with proposed deceleration lanes causing confusion for vehicles exiting the site, creating safety issues. Both requested a Road Safety Audit and Council, a Safe Intersection Sight Distance assessment to demonstrate the access point can operate efficiently and safely. Council also suggested that a left-in left-out arrangement be considered and raised concerns that B-Triple vehicles would be used on the site.

In its RTS, the Applicant provided a Road Safety Audit which classified the risk rating as medium, noting the egress from the site was wide. It also suggested the relocation of the intersection further north may reduce sight distances. To rectify the issues realised in the Road Safety Audit, the Applicant suggested several mitigation methods, including redesigning the access point to reduce the potential of double lane exiting. The Applicant also demonstrated that sight distances exiting the proposed estate road would be 155 m, meeting Austroads requirement of 151 m. The RTS also suggested construction works would likely have similar timing and site access location to the M12 Motorway project's construction works.

On review of the RTS, both Council and TfNSW advised the responses had not adequately addressed their concerns, with TfNSW also adding that more detailed design plans of the estate road intersection were required.

Between September 2021 and April 2022, the Department led extensive consultation between the Applicant, TfNSW and Council to address the outstanding matters relating to the intersection's design

and location. Upon review of several detailed designs, TfNSW reiterated its concerns relating to driver confusion when exiting the site, given the close proximity of the deceleration lane to the southbound lane divergence from one to two lanes (see **Figure 8**).

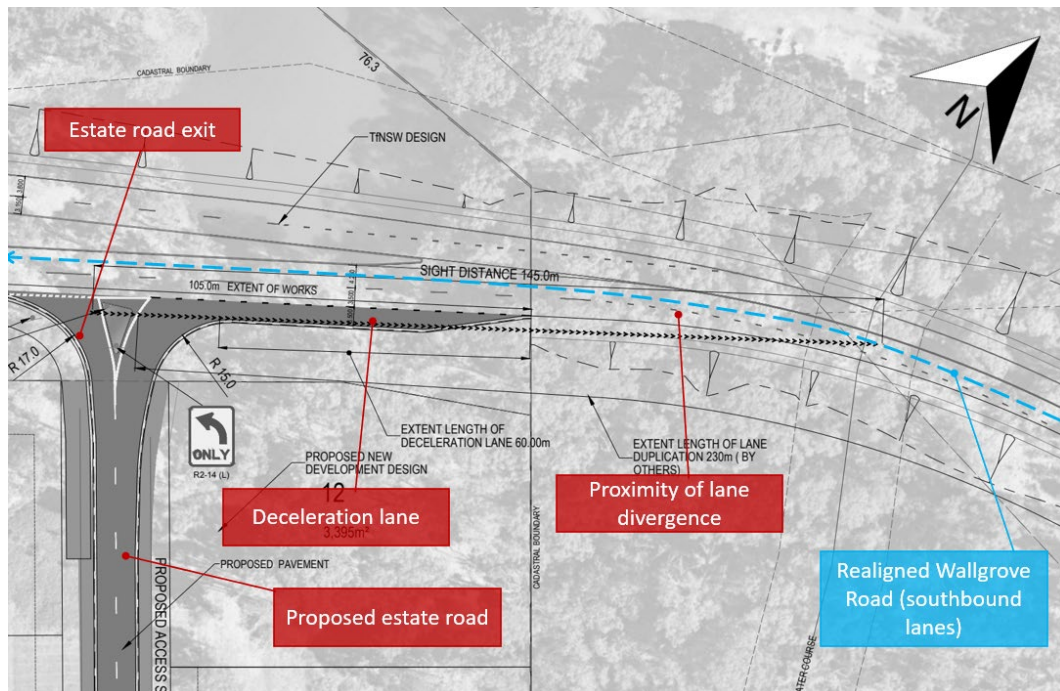


Figure 8 | Original detailed concept plan of roadway changes

After a collaborative process with TfNSW, the Applicant subsequently supplied a revised design (see **Figure 9**) of the proposed estate road / future Wallgrove Road intersection, to address the concerns of TfNSW around driver confusion by proposing line marking changes to the southbound traffic lane. This would change the continuing lane of southbound traffic from the right lane to the left, reducing the amount of lane changes required in a short distance to enter the site. Some widening would also be required to move the divergence northward, which may require steepening of the road's batters and an increase in pipe culvert lengths under the future Wallgrove Road.

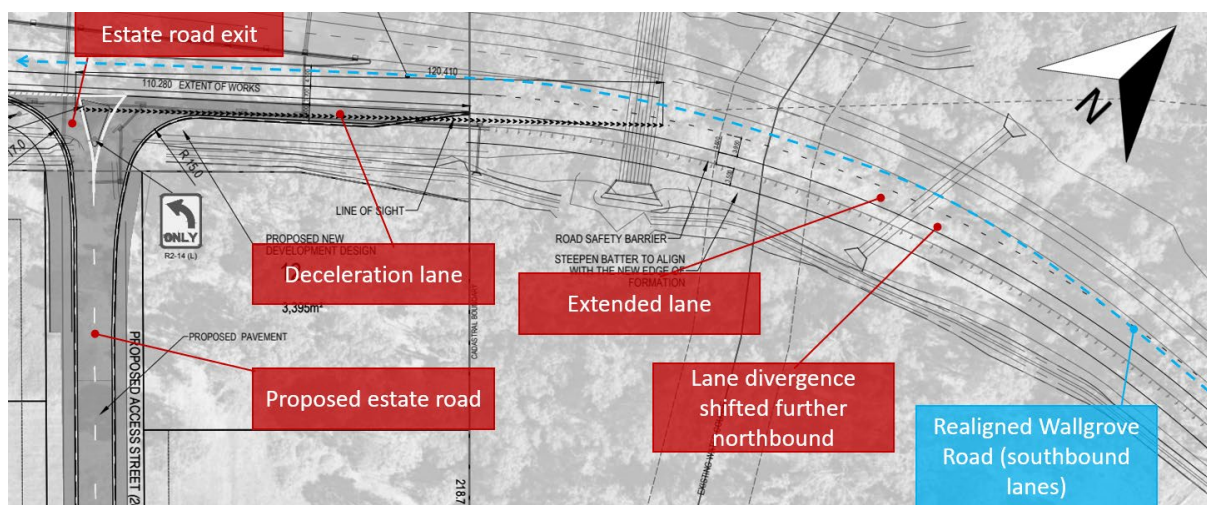


Figure 9 | Final concept roadway and intersection design

The final intersection design restricts access to a left in, left out access to the southbound lanes of the realigned Wallgrove Road, including a deceleration lane into the estate road. The Applicant also revised its design vehicle to a 19 m semi-trailer vehicle.

TfNSW reviewed the above design solution proposal by the Applicant and provided its concurrence, closing out its concerns. TfNSW recommended conditions that would require the Applicant to gain its approval for the final detailed design of the future Wallgrove Road design upgrades, intersection work and drainage. TfNSW also recommended a condition requiring a Works Authorisation Deed in order to fund the additional works needed to the future Wallgrove Road compared to the road's original design.

TfNSW also recommended a number of other conditions including:

- requiring the Applicant to prepare and implement a Construction Traffic Management Plan (CTMP) to manage construction access and any residual traffic impacts
- regular consultation with the M12 Motorway project team regarding works, access and the scheduling of construction activities
- ensuring the Applicant is responsible for removal of driveways on Elizabeth Drive and public utility relocation works.

Council raised no further concerns after it was supplied with the detailed road drawings. It recommended several conditions relating to access and the estate road including:

- dedication of the estate road (including splay) to Council
- a section 138 *Roads Act 1993* approval from Council for the estate road and associated works
- demonstration that the largest approved heavy vehicle can move through the site
- installation of a satisfactory crossover to each lot
- preparation of a CTMP.

Department's Assessment and Conclusion

The Department's assessment has considered the access from the site's estate road to the realigned Wallgrove Road, noting there may be some changes required in the detailed design stage as a result of further design refinements to the future Wallgrove Road. The Applicant's assessment has shown the development's access can meet the requirements for sight distances when exiting the site.

Noting both TfNSW and Council were satisfied with the final intersection design to the site, the Department considers the intersection to be appropriately designed to ensure safe and efficient access to the development's estate road, with a suite of changes to the design of Wallgrove Road surrounding the site. This includes the addition of a deceleration lane to enter the site, changes to line markings to reduce driver confusion and some road-widening works. The changes to the design to restrict the development to left in left out operations only will ensure traffic conflicts are reduced.

Accordingly, the Department has recommended a condition requiring the Applicant to carry out the deceleration lane works and to liaise with TfNSW regarding the redesign works required for the future Wallgrove Road subject to the satisfaction of TfNSW. The Department has also recommended a condition requiring the Applicant to enter into a Works Authorisation Deed for the redesign works, ensuring its completion prior to the granting of a subdivision certificate. The Applicant has accepted this condition and has agreed to fund the cost of these works. The Department has also recommended conditions requiring the Applicant gain relevant approvals from Council and demonstrate design plans relating to accommodation of the largest vehicle and lot access.

The Department notes construction is expected to be undertaken at a similar time to the M12 Motorway works and as such, may be impacted by construction schedules of the motorway project. To manage construction traffic impacts, the Department has recommended conditions requiring the Applicant to prepare a CTMP, which outlines access arrangements and the interaction of the development with the M12 Motorway project, aligning with TfNSW's recommendation.

The Department's assessment concludes the restriction of site access to a left in left out, the inclusion of a deceleration lane and upgrades to the future Wallgrove Road, will ensure the development maintains the safety and efficiency of the future Wallgrove Road and provides safe access to the development. Based on the advice from TfNSW, the Department is satisfied the development can gain acceptable access from the area's future road network, subject to the above recommended conditions of consent.

Traffic

The Applicant provided a Traffic Impact Assessment as part of its amended EIS. While the DA seeks consent for only the subdivision and initial infrastructure works of the development, the Applicant's assessment based traffic generation calculations on the potential land uses discussed in **Section 2** of this report using a range of tourism and recreation uses and a gross floor area of 9,490 m². The traffic assessment predicted that once all lots are fully developed, the site would generate 568 vehicle trips in both peak hours and 5,680 vehicle movements per day. It was estimated that approximately 10% of these would be heavy vehicle traffic.

The traffic assessment considered the development in the context of the future M12 Motorway project, and the associated upgrade and changes of Elizabeth Drive, Wallgrove Road and Cecil Road. It concluded that given the new roads and intersections have not yet been constructed and will consider long term traffic flows, the development would have minimal impact on these corridors.

Both Council and TfNSW requested SIDRA modelling be undertaken by the Applicant to understand the precise impacts the development would have on the surrounding intersections of Elizabeth Drive / Wallgrove Road / Cecil Road.

In its RTS, the Applicant carried out this additional assessment, however it noted that given the roads have not been constructed and traffic volumes had not been made available, SIDRA modelling was not possible. As such, the Applicant made the assumption the upgraded surrounding road network's intersection would have a Level of Service (LoS) of at least C until 2036. Based on this level, and using TfNSW's data on peak hour flows, the Applicant concluded the additional 568 vehicle trips in peak hour would not impact on LoS of the intersections, however noted the traffic levels were estimates only and would be subject to merit assessment during the DA process for the ultimate development of lots.

In its review of the RTS, Council raised further concern over traffic generation impacts on queuing on the estate road and the impacts the traffic levels may have on the surrounding road network. In response, the Applicant provided further analysis of the impact the considered traffic levels would have. The Applicant reiterated the traffic levels put forward were extremely conservative, and traffic level estimates for the future Wallgrove Road had not yet been released. However, using two scenarios of traffic along Wallgrove Road, concluded that LoS into the site would continue to operate at an A level, with the worst-case scenario resulting in a LoS of B when exiting the estate road.

After a review of the Applicant's additional information, Council had no further comments and recommended several conditions, including an Operational Traffic Management Plan be prepared by the Applicant to manage traffic generation from the site.

Department's Assessment and Conclusion

The Department notes land uses and associated traffic generation by the lots are indicative only at this stage and will be subject to assessment in future DAs seeking consent for specific land uses on site. Further, the Department notes that neither Council, nor TfNSW raised concern over the predicted traffic generation levels being underestimated. The ultimate development of the lots will require assessment of the traffic impacts of the land use, including the impacts it may have on the estate road / future Wallgrove Road intersection.

The Department considers the traffic generation levels to be a conservative estimate of future land uses on site, noting several of the sites will have development footprint restrictions relating to bushfire (see **Section 6.3**). The Applicant has provided SIDRA modelling on the design of the estate's road with Wallgrove Road, demonstrating in the majority of circumstances, a LoS A is achieved. Future DAs for the lots will be required to undertake traffic assessments to assess the impacts of the proposed development on the surrounding road network and will be considered by the relevant consent authority at that time. Mitigation measures would be expected to be provided if an unduly impact is found.

The Department's assessment concludes that traffic from the fully developed site would be adequately accommodated on the local and regional road network subject to the design upgrades to the estate road intersection discussed above.

Parking

In its traffic assessment, the Applicant concluded that each lot would have sufficient space to provide onsite car parking and that it would be a consideration of future DAs on each lot.

Council requested the Applicant undertake a Parking Impact Assessment Report to demonstrate that future developments would meet parking demands.

In its response to this issue, the Applicant reiterated that the development seeks consent for subdivision works only and parking requirements should be considered in the development of the lots as part of future DAs.

Council reviewed the Applicant's response to parking issues, and recommended a condition requiring future developments to meet the parking requirements of Council's DCP.

Department's Assessment and Conclusion

The Department has considered parking in the assessment of the development and notes that future land uses on site would be required to ensure appropriate car parking is provided as part of the future DA process for each lot. The Department considers the size and shape of the proposed lots would facilitate enough space to include parking in future developments on site. However, the Department has recommended a condition requiring the Applicant to ensure there is adequate parking for construction traffic on site, to be implemented as part of the CTMP.

The Department's assessment concludes the proposed lots of adequate size and layout to facilitate sufficient parking as part of future DAs for land uses and can contain all construction parking on site, subject to the implementation of the CTMP.

6.2 Biodiversity

The development involves clearing of vegetation and earthworks across the site and construction of an estate road through the site.

As part of the amended EIS, the Applicant provided a BDAR in accordance with the Biodiversity Assessment Methods 2017 and the BC Act. The Applicant provided an amended BDAR with the RTS in response to issues raised by BCD, including:

- clarifying the project footprint to include on site stormwater management
- native vegetation mapping extent,
- targeted surveys of native vegetation and the Cumberland Plain Land Snail habitat polygon shape of the Southern Myotis area
- details on avoiding and minimising impacts.

The below assessment considers the amended BDAR.

The amended BDAR considered the site in the context of the substantial works occurring as part of the M12 Motorway project, which sees work (including vegetation clearing) occur immediately to the north, south and west of the site. It noted the subject site sits within an area that has been substantially modified by agricultural development with a mix of cleared land and fragmented native vegetation.

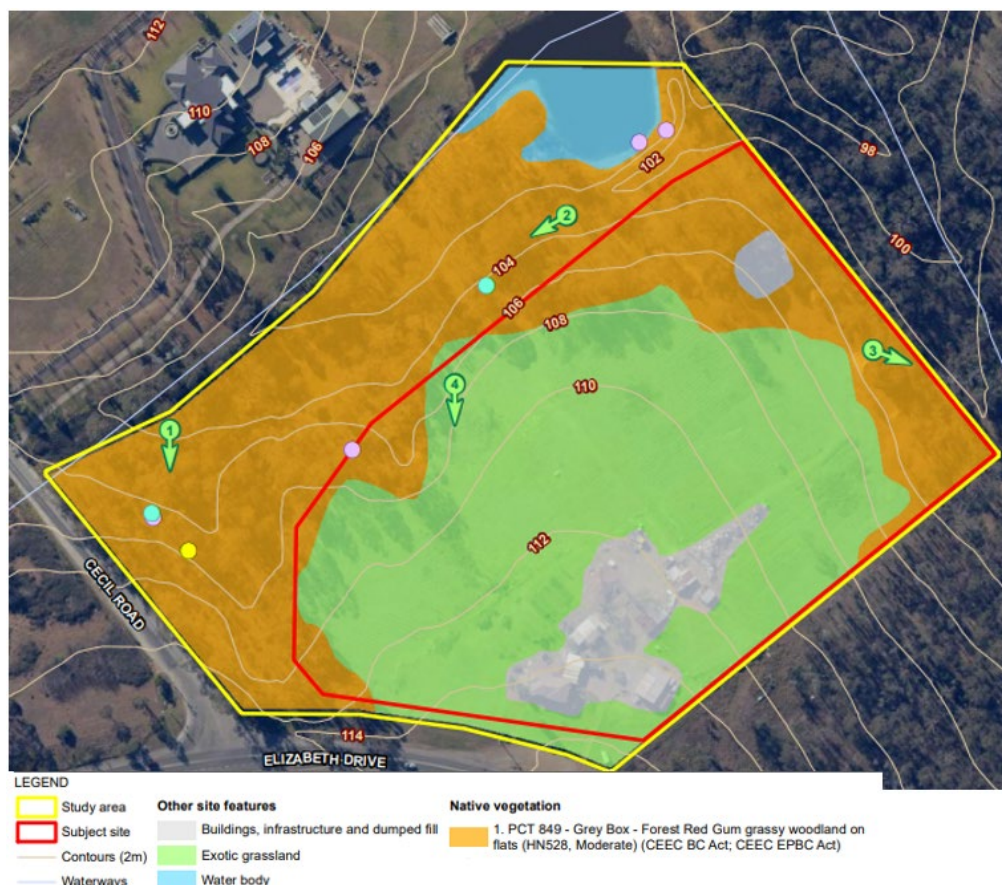


Figure 10 | Vegetation Communities on Site

Flora Impacts

The development includes the clearing of 1.15 ha of native vegetation and 3.05 ha of exotic vegetation and grasslands (see **Figure 10**). The proposed clearing would impact a single plant community type,

1.15 ha of Forest Red Gum grassy woodland on flats of the Cumberland Plain (an endangered ecological community). The BDAR found the plant community type to be of a moderate condition and found no evidence of threatened flora species being located on site. Four hollow bearing trees were also identified on site.

The amended BDAR found the vegetation on the site to be fragmented and isolated from larger surrounding vegetation corridors. To the east of the site is a regional vegetation corridor which runs north-south that forms part of the WSP, however, this is separated from the site by the existing M7 Motorway. The approved future M12 Motorway works also add to this, further fragmenting the site to its north and south. Due to this, the Applicant considered that the development would have little impact on further fragmentation.

The amended BDAR concluded that the impacts of clearing were not significant and could be offset through the purchase and retirement of ecosystem credits in accordance with the NSW Biodiversity Offsets Scheme.

Fauna Impacts

The clearing of 1.15 ha of potential habitat has potential to impact on native fauna species. During field surveys, four threatened fauna species were identified within the subject site including:

- Southern Myotis (*Myotis macropus*)
- Large Bent-winged Bat (*Miniopterus orianae oceanensis*)
- Eastern Coastal Free-tailed Bat (*Micronomus norfolkensis*)
- Grey-headed Flying-fox (*Pteropus poliocephalus*).

Although the Large Bent-Winged Bat and the Grey-Headed Flying-Fox were identified on site, no breeding camps were found, minimising the impact of clearing on these communities.

The BDAR also noted a large number of Cumberland Plain Land Snails had been reported in previous biodiversity assessments in the locality within the last 20 years (including a 2020 study undertaken as part of the M12 Motorway project assessment), however none were found on the site during field surveys. Despite this, the BDAR took a conservative approach and assumed that the species occur on site for impact assessment reasons.

Due to the fragmented nature of the site and the high quality vegetation corridor to the east of the site, which offers significant habitat for the above species, the BDAR recommended impacts be offset in accordance with the Biodiversity Offsets Scheme.

Impact Avoidance and Mitigation

The BDAR has proposed a range of mitigation measures to minimise the biodiversity impacts of the development, which it recommended implementing into the Construction Environmental Management Plan (CEMP). These include:

- implementing pre-clearance procedures to identify and protect native fauna
- salvage and reuse of hollow bearing trees in adjoining areas of vegetation
- developing a weed and pest species management plan
- limiting disturbance of vegetation to the minimum necessary, including protection measures on nearby vegetation that is not being removed.

Proposed Offsets

The Applicant proposes to offset the clearing impacts of the development by purchasing and retiring ecosystem and species credits in accordance with the NSW Biodiversity Offsets Scheme. The BDAR identified the following credits would be required:

- 48 ecosystem credits for Cumberland Plain Woodland
- 38 species credit for Southern Myotis
- 39 species credit for the Cumberland Plain Land Snail.

While Large Bent-winged Bat, Grey-headed Flying-fox were found on site, these were excluded from credit calculations due to the lack of breeding camps on site. It is also noted the Eastern Coastal Free-tailed Bat falls within the ecosystem credit.

BCD did not comment on the proposed offsets but provided detailed recommendations for a landscape plan and several other mitigation measures for the development.

The Department notes the offsets have been calculated by an accredited Biodiversity Assessment Methods assessor, in accordance with the Biodiversity Offsets Scheme. The Department has recommended conditions for the retirement of the ecosystem and species credits prior to any clearing or construction works. Alternatively, the Applicant may make an equivalent contribution to a Biodiversity Conservation Fund to offset the impacts of clearing.

Department's Assessment and Conclusion

The Department has reviewed the biodiversity impacts of the development and consulted BCD and WSPT.

The Department notes the area surrounding the site, outside of the development's developable area, has been approved for significant changes and removal of habitat as part of the M12 Motorway project to the north, east, south and west of the site, further fragmenting and isolating it from surrounding vegetation corridors. The POM further reinforces this conclusion, noting the Cecil Park North precinct remains an isolated part of the parklands, separated by the M7 Motorway, Elizabeth Drive and future M12 Motorway. This results in the site having poor connectivity features to surrounding vegetation patches. The Applicant has attempted to mitigate the impact the clearing will have on biodiversity by putting forward several measures to ensure salvage and reuse opportunities are implemented prior to construction and protecting adjoining vegetation.

BCD reviewed the amended BDAR and advised its previous comments had been adequately addressed and raised no further issues. It recommended a number of conditions that related to the BDAR findings, including:

- pre-clearance surveys
- translocation of juvenile native plants
- reuse of removed trees in surrounding area (on site and surrounding nature reserves)
- protection measures of adjoining vegetation
- site landscaping requirements.

WSPT reviewed the proposal and raised concerns that the development does little to enhance the natural systems and values of the WSP. The Department notes the site and surrounding area have already been approved to be substantially altered, further degrading the existing vegetation on site. The Applicant has committed to carrying out vegetation planting on site, adding to WSP's biodiversity after

completion of the project, as well as linking into the M12 Motorway project's pedestrian and bicycle network.

The Department has recommended conditions of consent requiring the Applicant to prepare a Landscape Management Plan that incorporates the recommendations of BCD, in addition to requiring the retiring of offset credits minimise the biodiversity impacts of the development. With these conditions in place, the Department considers the biodiversity impacts would be adequately minimised and offset.

Furthermore, the Department has recommended several conditions requiring the Applicant to liaise with surrounding reserve managers to reuse trunk and tree hollows to enhance the habitat, allowing for these to be used in areas with higher ecological value than the subject site. Due to this, the Department considers the development has the ability to enhance the biodiversity of other parts of the WSP.

The Department's assessment concludes the proposed vegetation clearing would be unlikely to significantly impact on biodiversity values, including threatened ecological communities and threatened fauna species due to its fragmented nature. The Applicant would offset residual impacts through the NSW Biodiversity Offsets Scheme and would remove exotic species from the site, as well as replanting native vegetation as part of the works. The offsets would address the requirements of the BC Act.

6.3 Other Issues

The Department's assessment of other issues is provided in **Table 3**.

Table 3 | Assessment of Other Issues

Findings	Recommendations
Bush Fire	
- The site has been identified as bush fire prone land by the RFS and on Council's bush fire prone lands mapping. - To assess bush fire risk, the Applicant prepared a Bush Fire Assessment as part of the amended DA. The BFA identified bush fire prone land within and to the east of the site. - The BFA concluded the development was compliant with <i>Planning for Bush Fire Protection 2019</i> (PBP 2019) and recommended mitigation measures including Asset Protection Zones (APZs) within the site boundary. - In response to concerns raised by the RFS regarding the uses on site and the size and extent of APZs and the perimeter road, the Applicant provided an updated assessment in August 2021. - The updated assessment included increasing the width of APZs (see Figure 5) along the north eastern boundary of proposed lots 10 and 11 as well as a restriction on the use of proposed lots 6-11 prohibiting special fire protection purpose developments (such as childcare centres, schools and tourist accommodation) and service centres. - The updated BFA confirmed the design of roads in the subdivision would provide operational access and egress for emergency services and the public. - As proposed lot 12 will form part of an inner protection area (IPA) of an APZ, the Applicant also confirmed a community title scheme or Plan of Management would be used as a formal mechanism to manage the lot as an IPA, as part of its mitigation measures. The updated BFA concluded that, with the proposed mitigation measures, the development would meet the requirements of PBP 2019.	Require the Applicant to: - establish restrictions on the use of lots 6 - 12 - establish and maintain APZs in accordance with the recommendations of the updated BFA - manage the site in accordance with PBP 2019 requirements - establish emergency services access roads along the perimeter.

Findings

Recommendations

- The RFS reviewed the updated assessment and raised no further concerns, recommending conditions for the following:
 - restriction on the use of lots 6-12 prohibiting hazardous industries (including highway service centres), special fire protection purpose uses and class 9 buildings greater than 500 m²
 - prohibition of buildings in APZs along the north and south eastern site boundary
 - establishment of a Plan of Management or Community Title scheme for management of the on-site detention basin
 - provision and maintenance of APZs and emergency access.
- The RFS further recommended that all landscaping, public road access and the provision of water, electricity and gas services comply with PBP 2019.
- The Department is satisfied appropriate measures including the establishment of APZs, emergency services access roads, restrictions on use and water supply will be incorporated into the design of the development in accordance with PBP 2019 and RFS requirements.
- The Department recommends conditions of consent for the restriction on use, implementation of APZs and implementation of the management and mitigation measures recommended by the RFS to ensure the safety of future developments on site. The Department notes the Applicant has committed to management of the stormwater lot.
- The Department's assessment concludes sufficient consideration has been given to potential bush fire threats on the development site and is satisfied the bush fire risk would be low and can be appropriately managed through the design of the development and the recommended conditions of consent.

Potential Land Uses

- The Applicant seeks consent for subdivision and associated infrastructure works. While no specific land uses are sought, in its amended EIS, the Applicant has indicated the types of uses that may be located on the site in the future, including tourism, recreation and community uses. It is on this basis that the Applicant has undertaken its assessment of potential impact associated with the development.
- Land use concerns were raised by the WSPT and Council around the impact the development may have on existing centres and conflict with land uses considered appropriate for the area in the POM. Suitability of the site for 'commercial' uses were also an area of concern in public submissions.
- Since the original DA, the Department has led extensive consultation between the Applicant and WSPT to ensure that it is designed in a way to support future land uses that align with the POM, which would be subject to future DAs.
- In its last correspondence on the amended EIS, WSPT recommended the Department consider restricting land uses on the site to tourism and associated facilities (including food and drink outlets).
- The Department considers the potential land uses of tourism, recreation and community uses to generally align with uses identified in the POM (as discussed in **Section 3.3**) and will assist in activation of the Cecil Park North precinct.
- The Department notes that the State Environmental Planning Policy (Precincts—Western Parkland City) 2021 is the key EPI that sets land use permissibility in WSP. Under section 7.9 of the policy, most

Require the Applicant to:

- ensure future development is consistent with the EIS and RTS.

Findings

Recommendations

development not carried out by or on behalf of a public authority requires consent to be obtained.

- As such, the ultimate development of the proposed lots will require consent from the relevant consent authority.
- While the Department is satisfied the Applicant has designed the development to facilitate future uses that align with the POM, the ultimate development of the lots will be subject to future DAs to consider their appropriateness under the EP&A Act and their consistency with the POM.
- Due to this, the Department considers the concerns over land use appropriateness can be fully considered at future DA stages when further details of uses are known.
- However, to ensure consistency, the Department has recommended a condition requiring future development to be generally consistent with the EIS and RTS.
- The Department's assessment concludes that the matter of future land use and development types that may utilise the proposed lots is a matter for consideration as part of any future DAs on these lots.

Hazard and Risk

- Jemena owns and operates two high pressure gas transmission pipelines which are located either on, or within close proximity to the site. Changes to, or intensification of land surrounding pipelines have potential to compromise the pipeline, as well as introduce incompatible development near the pipeline.
- The Applicant noted in its amended EIS that the existing 20 m easement would be sufficient in protecting the gas pipeline.
- In its submission, Jemena raised several concerns relating to the proposal, including significant risk in allowing sensitive developments within 76 m of Jemena's pipeline easement boundary and noted works proposed in the easement would require Jemena's approval.
- Jemena also raised the requirement of any sensitive developments occurring within 766 m of Jemena's pipeline easement must undergo a Safety Management Study to identify, consider and address the implications to the pipeline.
- In its RTS, the Applicant responded to these comments by redesigning the layout of the subdivision so that the lot boundaries would roughly follow the 76 m buffer, which would ensure lots 1 to 5 were outside of the buffer.
- Jemena was consulted on the updated layout plan and directed the Department to its initial comments and recommendations.
- While the amended application is not seeking approval for future uses on the site, the Department considers there is a need to ensure that any future development on the site complies with the relevant risk criteria and is appropriately sited from Jemena's gas pipeline so as to not compromise its assets. The Department has recommended conditions to reflect these outcomes, requiring the Applicant prepare a Safety Management Study in consultation with Jemena on Lots 6-11.
- The Department's assessment concludes the hazards and risks associated with the development can be appropriately managed through the recommended conditions of consent.

Require the Applicant to:

- prepare a Safety Management Study prior to construction commencing works on lots 6-11
- ensure future development on site consider and assess the impacts of development within close proximity to the gas pipeline.

Stormwater Management

- Subdivision works have the potential to adversely impact on stormwater quality and quantity discharging from the site to off-site watercourses. Key sources include sediments from disturbed and cleared areas during construction and litter and pollutants from the developed lots.
- To ensure protection of off-site waterways, the Applicant prepared an erosion and sediment control plan for construction and a Concept Stormwater Management Plan (CSMP) for the final stormwater system design, incorporating several Water Sensitive Urban Design measures.
- The proposed stormwater quality treatment train included rainwater tanks, gross pollutant traps and a bio-retention basin. The basin would also function as an on-site detention basin incorporating 1,960 m³ of on-site storage to manage the quantity of water discharged from the site to a tributary of Ropes Creek along the north western site boundary.
- MUSIC water quality modelling and hydraulic modelling in the CSMP demonstrated the proposed treatment train would meet Council's post-development water quality and water quantity objectives, respectively.
- Council did not raise any issues regarding the Applicant's approach to stormwater management, and recommended conditions requiring the preparation of a Construction Environmental Management Plan (CEMP) incorporating erosion and sediment control measures, surface stabilisation, dust control, spill kits and protocols and ongoing water quality management.
- The Department is satisfied the Applicant's proposed CSMP provides a suitable approach to the management of stormwater discharged from the site to ensure the protection of water quality and control of discharge volumes to prevent downstream flooding and erosion.
- Conditions are recommended requiring the Applicant to install and maintain suitable erosion and sediment control measures on-site during construction, comply with section 120 of the *Protection of the Environment Operations Act 1997*, which prohibits the pollution of waters, and to design, install and operate a stormwater management system for the development consistent with the CSMP.
- In concurrence with Council, the Department also recommends the Applicant be required to prepare a CEMP incorporating all construction environmental management measures, including an erosion and sediment control plan, spill management, surface stabilisation and dust control measures.
- As further construction of buildings and other infrastructure on the site will be subject to separate DAs, a condition is also recommended that requires all exposed areas to be stabilised (e.g. seeded / mulched) after completion of bulk earthworks to protect exposed areas from water and wind erosion until they are further developed.
- The Department's assessment concludes there are unlikely to be any adverse off-site water quality impacts or additional volumes of runoff from the site subject to the installation and operation of the proposed stormwater management system in the CSMP and the implementation of the recommended conditions of consent.

Require the Applicant to:

- prepare a CEMP incorporating an erosion and sediment control plan, spill management, surface stabilisation and dust control measures
- install and maintain erosion and sediment control measures during construction
- stabilise all exposed areas following the completion of bulk earthworks
- design, install and operate a stormwater management system consistent with the CSMP.

Flooding

- The site is bound to the east and west by tributaries of Ropes Creek and therefore may be at risk of flooding. Additionally, as proposed earthworks include cut and fill operations, including an additional 3,191 m³ of fill to be placed on the site, this may cause an unacceptable increase to flood risk on surrounding and downstream properties.
- In response to a request by BCD to consider a full range of flood events, the impact of filling on off-site flooding and subsequent changes in the subdivision design, the Applicant submitted an updated detailed flood assessment with the amended EIS.
- The updated assessment found the development footprint is located outside the flood extents of all events modelled up to the Probable Maximum Flood. However, the site entry would be marginally affected by flooding. Furthermore, impacts due to filling of the site would be negligible off-site.
- The Applicant's assessment concluded the site is not considered flood prone land under the NSW Floodplain Development Manual 2005, and, as the site is predicted to be free from flooding, a 'shelter in place' approach to evacuation is recommended for persons on site, depending on the final design of Wallgrove Road.
- BCD advised it had no further comments or concerns regarding flood risk management and did not recommend any conditions.
- The Department has considered the updated flood assessment and notes BCD is now satisfied the methodology and findings of the assessment are sound. It is acknowledged the final design of Wallgrove Road may have implications for evacuation from the site, which should be considered as part of flood emergency response planning in future DAs when the road design is finalised.
- Standard conditions are recommended requiring the Applicant to submit work-as-executed drawings signed by a registered surveyor confirming the finished levels of the estate road, drainage and areas of fill, are consistent with the civil plans in the amended EIS, prior to the issue of a subdivision certificate.
- The Department is satisfied the Applicant's assessment demonstrates the site is not at risk of flooding for all events up to and including the probable flood level and proposed on-site filling will not cause increased flooding elsewhere off-site. As such, the Department's assessment concludes no additional flood mitigation or management measures are required.

Require the Applicant to:

- prior to the issuing of a subdivision certificate submit work-as-executed drawings signed by a registered surveyor confirming the finished ground levels have been constructed in accordance with the civil plans in the EIS.

Aboriginal Heritage

- To assess the potential impacts of the proposal on Aboriginal cultural heritage the Applicant prepared an Aboriginal Cultural Heritage Assessment Report (ACHAR) in accordance with relevant Heritage NSW guidance.
- To support this assessment, test excavations were carried out in accordance with the 'Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales' (2010) and reported in an Aboriginal Test Excavation Report (ATER). The Applicant's assessment found no Aboriginal archaeological and cultural objects and/or deposits at the site and concluded the site was of nil to low archaeological significance.
- Heritage NSW advised the ACHAR incorrectly mapped a known Aboriginal site (Aboriginal Heritage Information Management System

Require the Applicant to:

- update AHIMS site 45-5-2563 location details on the AHIMS register
- prepare and implement an Aboriginal Cultural Heritage Management Plan.

Findings

Recommendations

(AHIMS) site 45-5-2563) within the development site and recommended the Applicant provide revised mapping, carry out further test excavations at the location of the AHIMS site and update the ACHAR and ATER.

- A revised ACHAR and ATER were submitted in August 2021 which confirmed the AHIMS site was not located within the development site and as such no further test excavations were required.
- The revised ACHAR made several recommendations which were formulated in consultation with the registered Aboriginal parties (RAPs) and Heritage NSW, including:
 - continued consultation with the RAPs
 - preparation of an Aboriginal Cultural Heritage Management Plan (ACHMP) to manage any unexpected finds on the site
 - pre-construction briefing for all construction staff regarding their responsibilities regarding unexpected finds of indigenous archaeological deposits
 - an unexpected finds protocol.
- Heritage NSW concurred with the location of the AHIMS site and advised no further archaeological test excavation would be required and the AHIMS site card be updated in the AHIMS register.
- However, Heritage NSW noted the ACHAR had not been issued to the RAPs and recommended this be carried out and the ACHAR be updated and finalised to address any comments received.
- The Applicant supplied the final ACHAR to the Department, which was issued to the RAPs. No comments were received from the RAPs and as such no further updates were required.
- The Department is satisfied the Applicant's ACHAR and ATER have been prepared in accordance with the relevant Heritage NSW guidance and have incorporated the views and advice of the RAPs and Heritage NSW.
- The Applicant has proposed suitable management and mitigation measures to ensure the ongoing protection of any unexpected finds of Aboriginal cultural heritage items which have the support of the RAPs and Heritage NSW and has committed to creating an Aboriginal Cultural Heritage Management Plan.
- Conditions are recommended requiring the Applicant to register the updated location details for AHIMS site 45-5-2563 on the AHIMS register, prepare an ACHMP as part of the Construction Environmental Management Plan (CEMP) which provides details of the pre-construction staff briefing on unexpected finds and includes an unexpected finds protocol.
- The Department's assessment concludes the proposed development is unlikely to have any adverse impacts on Aboriginal cultural heritage and any unexpected finds during construction can be suitably protected and managed in accordance with an ACHMP.

Non-Aboriginal Heritage

- The State Heritage listed Upper Canal System (Pheasants Nest Weir to Prospect Reservoir) forms part of the potable water supply infrastructure for Sydney. The Upper Canal System is located underground within a tunnel located under Elizabeth Drive, Wallgrove Road and the M7, approximately 200 m south west of the subject site.
- Given the proximity of the development site to the Upper Canal System, the Applicant prepared a Heritage Impact Statement (HIS) as part of the amended EIS in accordance with relevant Heritage NSW guidance to assess potential impacts on this item.

No conditions required.

Findings

Recommendations

- The HIS noted the adjoining bushland corridor would provide a buffer between the site and the heritage item. As such there would be no detrimental impacts on the State Heritage listed item.
- The assessment of the site did not find any heritage values which warranted the retention of the existing building and ancillary structures on the site.
- The Heritage Council of NSW did not raise any concerns regarding the proposal with respect to heritage impacts.
- As part of the amended EIS, the Applicant confirmed the findings of the HIS remained applicable to the amended proposal.
- The Department concurs with the findings of the Applicant's HIS and is satisfied the HIS provides a robust assessment of the potential heritage value of existing buildings and structures on the site and potential impacts of the proposal on the nearby State Heritage listed item.
- The Department concludes no conditions are required to manage or mitigate potential impacts on any European heritage values or items.

Contamination

- Historically the site has been used for agriculture and a market garden, and more recently, for grazing purposes. The site currently houses a dwelling house and numerous sheds, enclosures and stockpiles used for its multiple purposes over the years. As such, there is the potential for contamination to be present on site, including asbestos.
- The Applicant undertook a detailed site investigation to assess the potential contamination of the site as part of the amended DA and provided a remedial action plan to guide the remediation of asbestos contamination. Excavation and offsite disposal of asbestos impacted fill material was considered the most appropriate remediation technique.
- The investigation concluded the site can be made suitable for the proposed development pending implementation of management recommendations, including additional investigations for asbestos once demolition of structures has occurred.
- The Applicant's assessment confirmed a Remediation Validation Report (RVR) would be prepared to confirm the remediated site's suitability for the proposed development.
- Council supported the findings of the site investigations and the remedial action plan and recommended the Applicant be required to engage a Site Auditor and prepare an unexpected finds protocol as a condition of consent. The EPA refrained from commenting on the Applicant's assessment of land contamination.
- The Department concurs with the views of Council and the Applicant's recommended approach to remediation. To ensure the rigour of the remediation work and reports, the Department has recommended conditions that require the Applicant to obtain a Site Audit Statement at the conclusion of site remediation activities from an accredited Site Auditor to confirm the site has been suitably remediated to support the future land uses.
- A condition is also recommended that requires the Applicant prepare and implement an unexpected contamination finds protocol, ensuring that potentially contaminated material is appropriately managed.
- The Department's assessment concludes that, subject to the implementation of the recommended conditions and the provision of

Require the Applicant to:

- engage an EPA accredited Site Auditor to independently review the remediation works and reports
- implement the remedial action plan (which has been certified by the auditor)
- prepare a RVR at the completion of remediation works
- obtain a Site Audit Statement from an EPA accredited Site Auditor certifying that the site is suitable for its intended use.

Findings

Recommendations

a Site Audit Statement, the site can be made suitable for the proposed use.

Noise

- As part of the original EIS, the Applicant submitted a Noise and Vibration Impact Assessment (NVIA) for the operation of the proposed subdivision in accordance with the EPA's Noise Policy for Industry (2017).
- As part of the amended EIS the Applicant confirmed the amended proposal would not result in any increase to the potential noise and vibration impacts on surrounding residential receivers as assessed and as such, the findings of the original assessment are discussed and assessed here.
- The NVIA identified a total of seven off-site residential receivers, located to the north and east of the site on Cecil Road and Wallgrove Road.
- The NVIA predicted road traffic noise impacts on the façades of future buildings to be developed on the site and recommended specific glazing thickness requirements on east, south and western facades, with standard glazing on the northern façade to achieve satisfactory internal noise levels.
- Potential impacts of the developed site on residential receivers were predicted based on an indicative operational noise scenario which found project noise trigger levels would be exceeded at all residential receivers. However, since the NVIA, the development has seen a significant reduction in size and a change to indicative uses to remove noisier industrial style developments.
- Notwithstanding, the NVIA concluded a more accurate assessment of impacts and identification of appropriate mitigation measures would be carried out as part of the assessment of future DAs for specific developments on the site. Any predicted noise impacts could be managed through selection of equipment, enclosure of operations or localised barriers appropriate to each development at that time.
- Due to future development on the lots requiring a robust and considered assessment of environmental impacts, including noise, the Department considers operational noise impacts to be a matter to be considered at future DA stages, including any potential mitigation measures.
- To manage vibration impacts during construction, the Applicant proposes a range of mitigation measures including scheduling of vibration generating activities, ensuring safe working distances for vibration intensive plant and smaller rock breaking hammers.
- The Department is satisfied construction noise impacts associated with the proposed development can be managed using standard construction noise management measures to ensure activities do not generate noise above the highly noise affected noise management level of 75 dB(A) specified in the Interim Construction Noise Guideline.
- Appropriate mitigation and management measures are proposed for the management of potential vibration impacts.
- Conditions are recommended requiring the Applicant to:
 - comply with the standard construction hours and noise limits specified in the Interim Construction Noise Guideline
 - prepare a construction noise and vibration management plan which adopts the recommended mitigation measures in the NVIA.

Require the Applicant to:

- comply with the hours and noise limits specified in the Interim Construction Noise Guideline
- prepare a construction noise and vibration management plan.

Findings	Recommendations
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- The Department’s assessment concludes all potential noise and vibration impacts during subdivision works can be managed subject to the implementation of the Applicant’s proposed mitigation and management measures and the Department’s recommended conditions of consent.

Development Contributions

- | | |
|--|---|
| <ul style="list-style-type: none"> • Council’s Indirect (Section 7.12) Development Contribution Plan 2011 applies to the site. • Council has recommended a condition for the payment of contributions based on the cost of development. • On this basis, the Department has recommended a condition of consent requiring the payment of a section 7.12 contribution to Council. • Part of the site is located within the Western Sydney Growth Areas Special Contributions Area. • However, the site is not located within a Western Sydney growth centre precinct and as such, is not subject to Special Infrastructure Contributions. | <p>Require the Applicant to:</p> <ul style="list-style-type: none"> • pay the required 7.12 development contribution to Council. |
|--|---|

7 Evaluation

The Department's assessment of the application has fully considered all relevant matters under section 4.15 of the EP&A Act, the objects of the EP&A Act and the principles of ecologically sustainable development.

The Department has considered the development on its merits, taking into consideration strategic plans that guide development in the area, the EPIs that apply to the development, advice received from the relevant public authorities, including Council, and submissions from the public.

The development involves the subdivision and establishment of developable land in Western Sydney, opening up for a range of potential new uses including tourism, recreation and community, which will be subject to future DAs. Importantly, the development will provide 151 construction jobs, with potential for up to 443 jobs once all sites are full developed. The proposal is consistent with the key objectives of the Greater Sydney Region Plan, the Western District City Plan and the POM, as it will allow release developable land, designed for a range of uses linked to the Western Sydney Airport, including tourism and recreation uses, and facilitate land for the M12 Motorway project.

The Department's assessment considered traffic impacts and biodiversity to be key matters for consideration. The Department worked extensively with TfNSW, Council and the Applicant to ensure the development could facilitate the construction of the M12 Motorway project (including Wallgrove Road). The inclusion of a dedicated deceleration lane and widening of the future Wallgrove Road to the north ensures safe and efficient access from the new road network. The Department has recommended conditions to ensure the Applicant works closely with TfNSW into the future to ensure the development integrates with the planned roadworks surrounding the site.

In addition, the Department has worked with BCD and the Applicant to ensure the loss of vegetation is minimised and appropriately managed into the future, ensuring the Applicant considers vegetation reuse opportunities on and off the site. The Department notes the adjoining M12 Motorway project further isolates the remaining vegetation on the site. The Department has recommended conditions of consent to offset biodiversity impacts through the NSW Biodiversity Offsets Scheme and ensuring the Applicant considers reuse of vegetation on site in the landscaping.

The Department has recommended a range of conditions to manage any residual amenity or environmental impacts. Additional conditions relating to bushfire and gas pipeline management, remediation works, and protection of Aboriginal heritage have also been recommended in consultation with relevant State government agencies and Council. The Department has recommended conditions for the payment of development contributions and the Applicant's contribution to Wallgrove Road upgrades to service the development.

The Department concludes the impacts of the development can be appropriately managed through the management and mitigation measures proposed by the Applicant and through the implementation of the recommended conditions of consent. Consequently, the Department considers the development is in the public interest and should be approved, subject to conditions.

8 Recommendation

For the purpose of section 4.38 of the *Environmental Planning and Assessment Act 1979*, it is recommended that the Director, Industry Assessments, as delegate of the Minister for Planning and Public Spaces:

- **considers** the findings and recommendations of this report
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to grant/ to the application
- **agrees** with the key reasons for approval listed in the notice of decision
- **grants consent** for the application in respect of Elizabeth Drive Subdivision SSD-8859, subject to the conditions in the attached development consent
- **signs** the attached development consent and recommended conditions of consent (see attachment).

Report prepared by:
Thomas Bertwistle
Environmental Assessment Officer
Industry Assessments

Recommended by:



8 June 2022

Joanna Bakopanos

Team Leader

Industry Assessments

9 Determination

The recommendation is **Adopted** by:

Chris Ritchie

Director

Industry Assessments

Appendices

Appendix A – List of Documents

The Department has relied upon the following key documents during its assessment of the proposed development:

Amended Environmental Impact Statement

- 'Elizabeth Drive Subdivision - Amended Environmental Impact Statement' prepared by AE Design Partnership dated 27 September 2020.

Submissions

- All submissions received from relevant public authorities and the general public

Response to Submissions

- 'Response to The Department's Request for Further Information Elizabeth Drive Subdivision (SSD 8859)' prepared by AE Design Partnership dated 18 August 2021, and attachments.

Additional Information

- 'RE: Request for Additional Information', AE Design Partnership dated 31 January 2022, and attachments.
- Additional 'Development Access' drawings, MU Group, 29 March 2022.

Statutory Documents

- Relevant considerations under section 4.15 of the EP&A Act (see **Appendix B**)
- Relevant environmental planning instruments, policies and guidelines (see **Appendix C**)

All documents relied upon by the Department during its assessment of the application may be viewed at: <https://pp.planningportal.nsw.gov.au/major-projects/projects/elizabeth-drive-subdivision>

Appendix B – Considerations under Section 4.15 of the EP&A Act

Section 4.15 of the EP&A Act requires that the consent authority, when determining a development application, must take into consideration the matters contained in **Table 4** below.

Table 4 | Matters for consideration under section 4.15

Matter	Consideration
a) the provisions of:	The Department has considered the relevant environmental planning instruments in its assessment of the development.
i.) any environmental planning instrument, and	
ii.) 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 (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and	The Department has considered the relevant draft environmental planning instruments in its assessment of the development.
iii.) any development control plan, and	Under clause 11 of the SRD SEPP, development control plans do not apply to State significant development.
iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and	The Applicant has not entered into any planning agreement under section 7.4.
iv.) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates,	The Department has assessed the development in accordance with all relevant matters prescribed by the regulations, the findings of which are contained in this report.
b) 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 Department has considered the likely impacts of the development in detail in Section 6 of this report. The Department concludes that all environmental impacts can be appropriately managed and mitigated through the recommended conditions of consent.
c) the suitability of the site for the development,	The site has been identified as an isolated part of the WSP, with a vision of development facilitating tourism and M12 Motorway works. The development allows for the integration of M12 Motorway and provides developable land assist in meeting the objectives of the POM and District Plan. The site is located with good access to the M7 Motorway and future M12 Motorway corridor. The Department therefore considers that the site is suitable for the proposed development.

Matter	Consideration
d) any submissions made in accordance with this Act or the regulations,	All matters raised in submissions have been summarised in Section 5 of this report and given due consideration as part of the assessment of the development in Section 6 of this report.
e) the public interest.	The development would generate up to 151 jobs during construction, with a potential of 443 operational jobs once fully developed, and direct \$10.5 million in capital investment in the Fairfield local government area . The environmental impacts of the development would be appropriately managed via the recommended conditions. The Department considers to the development is in the public interest.

Appendix C – Consideration of Environmental Planning Instruments

To satisfy the requirements of section 4.15(1) of the EP&A Act, the following EPI's were considered as part of the Department's assessment:

- State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP)
- State Environmental Planning Policy (Western Sydney Parklands) 2009 (WSP SEPP)
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy No. 33 – Hazardous and Offensive Development
- State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)
- draft State Environmental Planning Policy (Remediation of Land) (draft Remediation SEPP)
- Fairfield Local Environmental Plan 2013

State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP)

The SRD SEPP identifies certain classes of development as SSD. The proposal is State significant development pursuant to section 4.36 of *Environmental Planning and Assessment Act 1979* (EP&A Act) because it involves development within the Western Parklands with a capital investment value of more than \$10 million which meets the criteria in Clause 5 of Schedule 2 in the SRD SEPP.

State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)

The ISEPP aims to facilitate the effective delivery of infrastructure across the State by improving regulatory certainty and efficiency, identifying matters to be considered in the assessment of development adjacent to certain types of infrastructure development, and providing for consultation with relevant public authorities about certain types of development during the assessment process.

TfNSW's comments are detailed in **Section 5** of the report.

The Department has consulted and considered the comments from relevant public authorities, including extensive consultation with TfNSW. In particular, the proposed development was amended during the assessment process to facilitate the construction of the M12 Motorway project, which will include Wallgrove Road being realigned through the current site. Where applicable, the Department has included suitable conditions in the recommended conditions of consent.

State Environmental Planning Policy (Western Sydney Parklands) 2009 (WSP SEPP)

WSP SEPP is the principal planning instrument applying to the site. Compliance with clause 12 of the WSP SEPP is provided in **Table 5** below. As the development is being carried out on private land, compliance with clause 17 of the WSP SEPP is provided in **Table 6** below.

Table 5 | Compliance with the clause 12 of WSP SEPP

Matter	Consideration and Comments
(a) The aims of this Policy	The proposal is consistent with the aims of the WSP SEPP as it will create developable land to facilitate a diverse range of recreational and tourist uses and allow for government infrastructure to pass through the site.

(b) The impact on drinking water catchments and associated infrastructure	The Department consulted with WaterNSW on the potential impact from the development on any nearby drinking water catchments. WaterNSW advised the nearest critical water supply infrastructure asset is the Upper Canal, which is located in a tunnel under Elizabeth Drive. WaterNSW concluded that as the site is located downslope from the asset, the impact would be negligible. The Department is satisfied the proposal will not impact on any drinking water catchments with the implementation of the recommended conditions
(c) The impact on utility services and easements	Jemena owns and operates a high pressure pipeline and associated easement that traverses the south eastern boundary of the site. To negate impact on the utility, the Department has recommended several conditions restricting land uses on sites within 76 m of the easement and requiring these sites to prepare a Safety Management Study. The Department is satisfied the proposal will not impact on utility services, subject to recommended conditions.
(d) The impact of carrying out the development on environmental conservation areas and the natural environment, including endangered ecological communities	The Application included a BDAR that was assessed by the Department and BCD. Impacts on biodiversity were considered a significant matter and are addressed in Section 6.2 of this report.
(e) The impact on the continuity of the Western Parklands as a corridor linking core habitat such as the endangered Cumberland Plain Woodland	The Department is satisfied that, with the implementation of the recommended conditions, the development will not impact on the continuity of the WSP as a corridor linking core habitat, given the existing fragmented nature of the site. This is expanded on in Section 6.2 of this report
(f) The impact on the Western Parkland's linked north-south circulation and access network and whether the development will enable access to all parts of the Western Parklands that are available for recreational use	The development will not impact on the north-south circulation and access network of the WSP and will not impact on access to any recreational use areas of the WSP.

(g) The impact on the physical and visual continuity of the Western Parklands as a scenic break in the urban fabric of Western Sydney	The development will be visible from Elizabeth Drive and the realigned Wallgrove Road and Cecil Road, and from within the WSP. To reduce potential impacts, the proposal includes landscaping requirements. Given the substantially modified nature of the site and future roadworks in the area, the Department considers the development would be unlikely to have significant visual impacts on the WSP.
(h) The impact on public access to the Western Parklands	The location of the development will not hinder public access to the WSP.
(i) Consistency with any plan of management or precinct plan for the WSP	The POM identifies the Cecil Park North precinct as an isolated patch of the WSP with the future character to provide for the M12 Motorway and tourism uses. The proposal has been designed in a way to make for developable land available for a range of land uses (subject to future DAs), including tourism and facilitate the route of the M12 Motorway works. As such, the development is considered consistent with the POM. An assessment the POM is found at Section 3 of this report.
(j) The impact on surrounding residential amenity	The proposal is not expected to result in any significant adverse impacts on the surrounding residential amenity. However, to protect and minimise amenity impacts, the Department has included a number of conditions regarding noise and air quality management during the construction phase.
(k) The impact on significant views	The proposed development will not impact any significant views.
(l) The effect on drainage patterns, ground water, flood patterns and wetland viability	The Department considers that the development will not create any impacts upon the drainage patterns, ground water, flood patterns or with the implementation of the stormwater conditions.
(m) The impact on heritage items	The impacts on Aboriginal cultural heritage can be appropriately managed through the implementation of the recommendations of the ACHAR, including the ACHMP.
(n) The impact on traffic and parking	A full assessment of the traffic issues associated with the proposal is provided in Section 6.1 of this report. Future development applications would be required to demonstrate compliance with the relevant parking and traffic requirements for the proposed development.

Table 6 | Compliance with clause 17 of WSP SEPP

Matter	Consideration and Comments
(a) whether the development will contribute to or impede the implementation of the aim of this Policy,	The proposal is consistent with the aims of the WSP SEPP as it will create developable land to facilitate a diverse range of recreational and tourist uses and allow for government infrastructure to pass through the site.
(b) the need to carry out development on the land,	The Applicant has provided an Economic Impact Assessment which has concluded that the catchment has a lack of development ready land for recreation and tourism purposes, which the development has been designed to address (subject to future DAs).
(c) the imminence of acquisition of the land,	TfNSW has advised the Applicant that it plans to acquire approximately 2.6 ha of the site. The Department accepted an amended DA and EIS in 2020 that facilitates this acquisition. The Department is not aware of any other imminent acquisition proposals.
(d) the effect of carrying out the development on acquisition costs,	The development has been designed in a way to ensure the land set to be acquired by TfNSW does not form part of the development footprint.
(e) the effect of carrying out the development on the natural systems of the Western Parklands,	The Application included a BDAR that was assessed by the Department and BCD. Impacts on biodiversity were considered a significant matter and are addressed in Section 6.2 of this report.
(f) the cost of restoring those systems after the development has been carried out.	The Application included a BDAR that was assessed by the Department and BCD. The Department has recommended a number of conditions that require the Applicant to reuse felled vegetation on site and consult with surrounding land managers regarding reuse opportunities.

State Environmental Planning Policy No. 33 – Hazardous and Offensive Development (SEPP 33)

SEPP 33 aims to identify developments with the potential for significant off-site impacts, in terms of risk and/or offence. A development is defined as potentially hazardous and/or potentially offensive if, without mitigating measures in place, the development would have significant risk and/or adverse impact on off-site receptors.

The Applicant seeks approval for the subdivision of the site and associated infrastructure installation. The amended EIS did not identify any potentially hazardous or potentially offensive development under Clause 3 of SEPP 33. Conditions have been recommended to ensure future development considers the impact and risk related to the continued operation of Jemena's gas pipeline and that a Safety Management Study is undertaken prior to construction works on lots within close proximity. Future land uses will be assessed under separate DA and be required to address the State Environmental Planning Policy (Resilience and Hazards) 2021.

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)

SEPP 55 aims to provide a State-wide approach to the remediation of contaminated land. In particular, SEPP 55 aims to promote the remediation of contaminated land to reduce the risk of harm to human health and the environment by specifying:

- under what circumstances consent is required
- the relevant considerations for consent to carry out remediation work
- the remediation works undertaken meet certain standards and notification requirements.

Contamination was considered in the Department's assessment of the development given the site had historically been used for agricultural uses and has had general soil disturbance in areas across the site. The Applicant's contamination assessment found asbestos on the site. An RAP has been prepared to guide the remediation of the site. Conditions have been recommended requiring the Applicant to engage a site auditor throughout the remediation works as well as implement the RAP following its certification from the auditor. The conditions also require the Applicant to obtain a site audit statement confirming the site is suitable for its intended future use.

draft State Environmental Planning Policy (Remediation of Land) (draft Remediation SEPP)

The draft Remediation SEPP seeks to retain the key operational framework of the current SEPP 55, while also adding new provisions relating to changes in categorisation and introducing modern approaches to the management of contaminated land. The development has been assessed against SEPP 55 (see above), and the Department is satisfied the development would be consistent with the draft Remediation SEPP.

Fairfield Local Environmental Plan 2013

The Local Environmental Plan aims to encourage the development of housing, employment, infrastructure and community services to meet the needs of the existing and future residents of the Fairfield local government area. The Fairfield Local Environmental Plan 2013 also aims to conserve and protect natural resources and foster economic, environmental and social wellbeing.

The development is located on unzoned land. Under Clause 6(1) of the WSP SEPP the Fairfield Local Environmental Plan 2013 does not apply to development in the Western Sydney Parklands.

Notwithstanding, the Department has consulted with Council throughout the assessment process and has considered all relevant provisions of the Local Environmental Plan and those matters raised by Council in its assessment of the development.

Appendix D – Community Views for Notice of Decision

The issues raised by these public submissions and how each issue has been addressed is summarised in **Table 7**.

Table 7 | Department's response to issues raised in submission from the public from the public

Issue	Consideration
Traffic Impacts Concern was raised in public submissions regarding the increase in traffic, the installation of a new roundabout on Elizabeth Drive and limited upgrades to mitigate traffic Proposed roundabout and no road upgrades proposed	In September 2020, the Applicant amended the DA to change access arrangements to facilitate significant road upgrades surrounding the site by TfNSW. These changes resulted in the removal of a roundabout on Elizabeth Drive in favour of an intersection on the upgraded and realigned Wallgrove Road. Significant collaboration between the Applicant, the Department, TfNSW and Council resulted in a left in, left out intersection on the future Wallgrove Road. TfNSW has advised some changes to the planned Wallgrove Road will also be required, including the lengthening of the southbound lane and construction of a deceleration lane. The Department notes that the establishment of land uses on site will require the lodgement of future DAs for each lot, which will be required to consider traffic impacts. Conditions include: The Department has recommended conditions requiring the Applicant to enter into a Work Authorisation Deed with TfNSW to ensure the detailed design of the site's access and roadworks are compliant with TfNSW's requirements and confirm funding arrangements.
Biodiversity Impacts Concern was raised by the public over the removal of vegetation and its impact of flora and fauna.	The development will require the removal of 1.15 ha of vegetation to accommodate the development footprint. The Applicant provided a BDAR in accordance with the Biodiversity Assessment Methods. The BDAR identified that site as having vegetation that was relatively fragmented from surrounding areas, given significant road corridors surrounding the site, including the approved removal of further vegetation under M12 Motorway works. The BDAR concluded a total of 86 species credits and 48 ecosystem credits were required to offset clearing of vegetation on the land. BCD recommended the offsetting of the abovementioned credits, pre-clearance surveys, reuse opportunities of habitat features (i.e. hollow trees) and the planting of native vegetation where possible. The Department's assessment concluded vegetation clearing would be unlikely to significantly impact on biodiversity values due to the fragmented nature of the site and adjoining M12 Motorway clearing works. Conditions include: The Department has recommended conditions requiring the offsetting of 86 species credits and 48 ecosystem credits in accordance with the BC Act and the preparation and implementation of a landscape management plan that incorporates locally native species and explores opportunities for salvage and reuse of vegetation.

Issue	Consideration
Suitability of Site Concern was raised by the public about the suitability of the site based on strategic planning and that the development would be out of character with surrounding development.	The Department notes that subdivision of the site is permissible with consent and has carried out a full assessment of the site in relation to the relevant strategic plans (see Section 3) and EPIs (see Appendix C). The Department's assessment has concluded that the site is suitable for the proposed development.
Stormwater Concern was raised by the public over the use of the site's dam for stormwater management and the quality of runoff from future land uses.	In September 2020, the DA was amended which included changes to stormwater management, which removed the use of the dam as use. The Applicant provided a concept stormwater management plan which proposes the use of an on-site detention basin to manage the quantity of stormwater discharged to Ropes Creek. As part of the CSMP, the Applicant also included a quality treatment train. The CSMP concluded that the development would meet Council's quality and quantity objectives. Council did not raise any concerns regarding the stormwater management. The Department's assessment concludes there are unlikely to be any adverse off-site water quality impacts or additional volumes of runoff from the site. It is noted the proposal seeks approval for subdivision and associated works only. Any future uses will be subject to stormwater assessments in subsequent DAs. Conditions include: The Department has recommended conditions of consent requiring the Applicant to install and operate a stormwater management system in consultation with Council.
Water Serviceability Concern was raised by the public regarding the site's serviceability of water and wastewater and potential for overflow from the proposed interim wastewater.	In its amended DA, the Applicant had confirmed the site can gain access to potable water through water mains on Elizabeth Drive and Cecil Road. The Applicant noted that reticulated sewage service is available to the south and east of the site, however recommended on-site wastewater management until a time sewer is available closer to the site. Sydney Water advised it had some concerns over the pump out system and recommended further discussions be held. The Department notes that future land uses will be required to adequately demonstrate wastewater can be managed. Further, the Applicant is required to gain approval from Sydney Water under section 73 of <i>Sydney Water Act 1994</i>. Conditions include: The Department has recommended a condition of consent requiring the Applicant to gain approval from Sydney Water for the water servicing of the lots.

Issue	Consideration
Contamination Concern was raised by the public that the Applicant did not demonstrate the site's contamination status.	In its amended DA, the Applicant undertook a detailed site investigation to assess potential contamination on site and provided remedial action plan to guide the remediation of asbestos contamination. Excavation and offsite disposal of asbestos impacted fill material was considered the most appropriate remediation technique. The Department's assessment concluded the site can be made suitable for the proposed use, subject to recommended conditions. Conditions include: The Department has recommended conditions of consent Applicant to obtain a Site Audit Statement (SAS) at the conclusion of site remediation activities from an accredited Site Auditor to confirm the site has been suitably remediated to support the future land uses.
Amenity Impacts Concern was raised by the public over operational visual, noise and air quality impacts on surrounding residential uses.	The Department notes the Applicant seeks consent for subdivision and associated infrastructure works only. As there is no operational component of the development, it is not expected to have a material impact on the amenity of surrounding properties. The ultimate development of each lot created will be subject to future DAs, which will be required to assess the amenity impacts. The Department understands that some amenity impacts may occur during the construction phase relating to air quality and noise impacts. The Department's assessment concluded that these impacts can be managed through appropriate conditions of consent. Conditions include: The Department has recommended conditions of consent ensuring construction noise and dust is appropriately managed in accordance with relevant policies.
Site Use Concern was raised by the public over the lack of details on built form and use.	The Department notes the Applicant seeks consent only for subdivision and associated works. The Applicant does not seek land uses approval at this stage, with subsequent DAs required to assess the merits of land uses on the resultant lots.
Gas Pipeline Concern was raised by the public regarding the gas easement on the site and conflicts with future land uses.	Concerns were raised by the Department and Jemena, the gas pipeline operator, regarding the location of the gas pipeline within the site and restrictions of sensitive uses within 76 m of the pipeline. In its RTS, the Applicant amended the site layout plan to move boundaries to follow the 76 m wide buffer, allowing for restrictions of land uses on Lots 6 to 11. The Department's assessment concludes that the hazard and risk of the pipeline can be suitably managed through recommended conditions of consent. It is noted future land uses will be assessed on their own merit regarding the pipeline Conditions include: The Department has recommended conditions of consent requiring assessment of hazards on developments within 76 m of the pipeline, as required by the EP&A Act.

Appendix E – Recommended Instrument of Consent

The recommended conditions of consent for SSD-8859 can be found on the Department's website at:
<https://pp.planningportal.nsw.gov.au/major-projects/projects/elizabeth-drive-subdivision>