

DEVELOPMENT ASSESSMENT REPORT – DA170/18 - SUBDIVISION 1 LOT INTO 2 & DEMOLITION OF GARAGE, 27 PIMPALA STREET MARRANGAROO NSW 2790

1. PROPOSAL

Council is in receipt of a Development Application DA170/18 for a subdivision of 1 lot into 2 lots and the demolition of an existing garage at 27 Pimpala Street, Marrangaroo.

The property currently contains an area of 4000m² and is proposed to be subdivided into 2 residential allotments. Both proposed lots will be 2000m² in size. Proposed Lot 1 is to contain the existing dwelling. Proposed Lot 2 will be vacant following the demolition of the existing garage. The proposed subdivision will result in a rear "battle-axe" shaped lot. The area of the access handle for the rear lot is included in the 2000m² size of the lot.

Access to proposed Lot 1 exists, with a new access driveway to be constructed for proposed Lot 2 along the battle-axe handle.

The land slopes gently from east to west, with a variety of planted vegetation around the existing dwelling and along the property boundaries. A row of larger trees are located on the property to the rear (golf course) near the rear boundary.

The property is shown in the picture below:



Past Applications

003/09CDC Swimming Pool
BA188/90 Dwelling
BA133/91 Garage
DACC463/05 Dwelling Addition

2. SUMMARY

To assess and recommend determination of DA170/18 with recommendation for refusal on the following grounds:

- a) The application has been assessed pursuant to Section 4.15 of the Environmental Planning and Assessment Act 1979 and it is considered that the development is likely to have detrimental impacts on the character of the locality and the site is not considered suitable for the development,
- b) The proposed subdivision is inconsistent with the R2 Low Density Residential Zone objectives in *Lithgow Local Environmental Plan 2014*,
- c) The proposed subdivision is inconsistent with the objectives of clause 4.1 Minimum Subdivision Lot Size in *Lithgow Local Environmental Plan 2014*,
- d) The proposed subdivision is inconsistent with the existing subdivision pattern in the locality,
- e) The proposed subdivision results in the potential for significant additional development on the lot that would not be in keeping with the character of the locality.

3. LOCATION OF THE PROPOSAL

Legal Description: Lot 34 DP 793965
Property Address: 27 Pimpala Street MARRANGAROO NSW 2790

4. ZONING

The land is zoned R2 Low Density Residential in accordance with Council's current planning instrument, being *Lithgow Local Environmental Plan 2014* (LEP 2014).

5. PERMISSIBILITY

The development being a 'subdivision' is permissible under LEP 2014, subject to development consent as per Clause 4.1 below.

4.1 Minimum subdivision lot size

(1) The objectives of this clause are as follows:

(a) to minimise the cost to the community of:

(i) fragmented and isolated development of rural land, and

(ii) providing, extending and maintaining public amenities and services,

(b) to ensure that the character and landscape setting of an area is protected and enhanced by any development,

(c) to promote development on appropriately sized lots and to ensure access to available essential services.

(2) This clause applies to a subdivision of any land shown on the Lot Size Map that requires development consent and that is carried out after the commencement of this Plan.

(3) The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land.

(4) This clause does not apply in relation to the subdivision of individual lots in a strata plan or community title scheme.

(4A) Despite any other provision of this clause, land identified as "Area 1" or "Area 2" on the Lot Size Map may not be further subdivided.

The minimum allotment size identified on the Lot Size Map for the area is 2000m². The size of the lots complies with the minimum allotment size identified on Council's Lot Size Map.

Notwithstanding compliance with the minimum lot size, the use of the access handle to achieve the minimum lot size for the rear lot is considered inappropriate. If the area of the access handle was excluded, the rear lot would be 1496m², significantly less than the minimum lot size of 2000m².

Pursuant to clause 2.7 of LEP 2014, the demolition of the garage is also permissible with consent.

5.1 POLICY IMPLICATIONS (OTHER THAN DCP's)

Guidelines for Civil Engineering Design and Construction for Development

Section 2.3.8.3 of the Guidelines state that "*Urban Battleaxe Lots are generally NOT permitted in new subdivision development. In special circumstances Lithgow City Council may consider a genuine need for construction of a battleaxe lot, in which case conditions for construction will be provided on a case by case basis*".

The proposal is inconsistent with the guidelines. It is not considered that there are special circumstances or a genuine need in this case to warrant departure from standard subdivision practices.

Policy 7.2 Subdivision – Release Of Subdivision Plans

1. Council will endorse subdivision certificates prior to completion of subdivision works only on the following basis:

a) Subdivision works must be substantially complete. "Substantially complete" means that all civil works have been completed including roads, water supply, sewerage and drainage. Minor outstanding works refers to installation of street signage, final rectification/seeding of excavations & batters and landscaping.

b) Works as executed plans must have been submitted to Council and accepted.

c) Security for incomplete works must be provided to Council prior to the endorsement of the subdivision certificate, either by cash deposit or unconditional bank guarantee.

d) The amount of the security must be 100% of the estimated cost of completion of the outstanding works.

2. The General Manager is authorised to determine the amounts of security deposits for outstanding subdivision work and to release security upon satisfactory completion and to vary the time periods for completion of works as deemed necessary.

3. The General Manager is authorised to decline to allow bonding of outstanding subdivisions works where the deferred completion of works would not be in the best interest of Council and the community.

4. The owner of the land to which the subdivision relates must provide written authority allowing Council to enter the site and make all necessary arrangements to have outstanding works completed within six (6) months of the date of the subdivision certificate.

5. The General Manager may sub delegate any function under this policy including the issue of a Subdivision Certificate.

If the application were to be approved, the following condition would be placed on the consent:

That a Subdivision Certificate Application be lodged to Council for approval.

Policy 7.5 Notification Of Development Applications

Subdivisions within the R2 Zone are not defined as being exempt of notification under Council's Policy. Therefore the following clause applies:

5. Who will be notified under this Policy and how long is the notification period?

5.1 Except for specified types of development outlined in 6.3 below, written notice of a development application will be given to landowners adjoining the Lithgow City Council Policy 7.5 – Notification of Development Applications land on which the development is proposed for a period of 14 calendar days. For the purposes of this policy adjoining land is land that directly abuts the subject site; shares a common boundary; or is situated directly opposite to the site where separated by a road, pathway or driveway.

The proposal was notified to surrounding landowners and placed on display for a period of 14 days and therefore complies with Council's Policy.

5.2 FINANCIAL IMPLICATIONS

Water Management Act 2000

This financial implication may apply if the development places an additional load on Council's water or sewer systems. I.e. new allotments being created, Hospitals, Schools, Public Toilets, Hotels, Motels, Caravan Parks, Flats/Units/Dual Occupancy, Clubs, Commercial Development & Industrial Developments.

Under the Water Management Act 2000, Section 305, an application for Certificate of Compliance must be submitted to Council. This Act states:

- (1) A person may apply to a water supply authority for a certificate of compliance for development carried out, or proposed to be carried out, within the water supply authority's area.*
- (2) An application must be accompanied by such information as the regulations may prescribe.*

Therefore, if the application were to be approved, Councils Section 64 Contributions under Local Government Act 1993 for water and sewer connections will be required to be paid prior to the release of the Subdivision Certificate release. The following condition would be included in the condition of consent:

An application shall be submitted to Council for the supply of a Certificate of Compliance under Section 305 of the Water Management Act. A Subdivision Certificate shall not be issued until such time as the contributions applicable to release the Certificate of Compliance are paid in full to Council. These contributions may be found in the current Lithgow Council Fees and Charges or any applicable document adopted by Council in relation to contributions under Section 64 of the Local Government Act 1993.

Section 94A (Section 7.12) Development Contributions Plan 2015

Under Section 7.12 of the Environmental Planning and Assessment Act 1979, Council can apply a development contribution levy as a percentage of the cost of the development. Given this application is for a subdivision and demolition, and the total cost is less than \$100,000, no levy is applicable. If the application were to be approved and a dwelling be proposed on the rear lot, a contribution may be applicable at that time.

5.3 LEGAL IMPLICATIONS

Conveyancing Act 1919

An 88B Instrument exists for the property and shows a sewerage easement running across the rear of the property, approximately 1m from the boundary. A number of restrictions are contained on the S88B instrument applying to all lots in the Marangaroo Fields Estate registered under DP 793965. One of these restrictions states that "*not more than one (1) main building shall be erected on the land hereby burdened*". Other restrictions apply to connections to services, size of the living areas and fencing.

The purpose of the restriction relating to the number of main buildings does not prevent dual occupancy development on a lot, which is permitted with consent under LEP 2014 (and was permitted with consent under the former Marangaroo Fields Estate DCP). Rather, the restriction seeks to limit the scale of any other buildings on each lot so that they are smaller than the main dwelling (such as a secondary dwelling or "granny flat").

The proposed subdivision will not of itself impact on the sewerage easement or any of the S88B restrictions. However, it will facilitate an additional "main" dwelling on the proposed rear lot and would facilitate a dual occupancy on both of the proposed lots, resulting in development that is inconsistent with the character of the locality and not in keeping with the intent of the S88B restriction.

Local Government Act 1993

If this application is approved, the applicant must obtain a written Section 68 application for connection to Council's water and sewerage supply. This must be lodged and approved prior to commencement of any work on site and shall be at full cost to the applicant.

The Section 68 application requires the submission of all detailed engineering drawings/design, specifications and any applicably supporting information for the proposed works. All conditions of the Section 68 Approval must be complied with prior to the release of the Subdivision Certificate/Occupation Certificate.

Environmental Planning and Assessment Act 1979

In determining a development application, a consent authority is required to take into consideration the matters of relevance under Section 4.15 of the *Environmental Planning and Assessment Act 1979*. These matters for consideration are as follows:

5.3.1 Any Environmental Planning Instruments

Lithgow Local Environmental Plan 2014

LEP 2014 – Compliance Check		
Clause		Compliance
Land Use table	R2 Low Density Residential	Yes
4.1	Minimum subdivision lot size	Yes
7.3	Stormwater management	Yes
7.5	Groundwater vulnerability	Yes

Comment: Notwithstanding compliance with the relevant provisions of LEP 2014, the development is not considered to be consistent with the objectives of the R2 zone as they relate to the locality. The zone objectives are:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To maintain or improve the water quality of receiving water catchments.*

The proposal is not considered to be consistent with the low density residential environment of the Marangaroo Fields Estate.

The surrounding area is generally for low density residential purposes, with the Lithgow Golf Club adjoining the property to the rear. A dual occupancy development exists on the adjoining lot to the west, however this is not typical of development in the Marangaroo Fields Estate, though dual occupancy development is permitted with consent. The majority of lots in the estate have a relatively regular shape taking into account the street layout. There are no other "battle-axe" lots currently in the estate. The typical form of development in the estate is large dwellings, with generous setbacks and established landscaping on large yards.

The visual impact of a future dwelling or dual occupancy on the rear lot cannot be assessed as part of this application. While a relatively small single storey dwelling on the rear lot may have minimal visual impact (as evidenced by the dual occupancy on the adjoining lot), a large two storey dwelling potentially has a negative visual impact. Further, the potential for dual occupancy development on

both lots would be likely to have a negative impact on the character and landscape setting of the estate.

Given the above, the proposal is not considered to be consistent with the character of existing development in the estate.

The Marangaroo Fields Estate has a current lot average of approximately 3,330m² per lot (consistent with the provisions of the original DCP for the estate). Given the vast majority of the lots in the estate have a single dwelling, the dwelling density is approximately 3,250m² per dwelling. Combined, the lot average and the dwelling density establish the current scale and character of the locality.

Should the application be approved, the dwelling density across the two lots would be 2,000m² per dwelling, further reducing the overall dwelling density of the estate to approximately 3,220m². Given the potential under LEP 2014 for dual occupancy development on each lot, the dwelling density across the two lots could be reduced further to 1,000m² per dwelling. This would reduce the dwelling density of the estate to approximately 3,145m².

The precedent created by the approval of this application may lead to additional subdivision proposals that would continue to result in reducing the lot average and dwelling density in the Marangaroo Fields Estate. The former DCP for the Estate contained a provision stating that "*the average size of allotment thereby created is not less than 3,000m²*". While the current proposal would not result in a density less than 3,000m², it does give rise to the potential for additional subdivisions of a similar nature being proposed that if approved would increase the density of the estate such that the average lot size would be reduced to below 3,000m².

The former DCP also contained a provision stating that "*notwithstanding the above, a person shall not further subdivide an approved allotment to which this Development Control Plan applies*".

While the former DCP has been repealed and there is no current DCP applying to the land, the former DCP provisions are relevant in so far as they provide guidance as to the planned scale and character of development in the estate.

The proposed subdivision is also not considered to be consistent with the objectives of clause 4.1 Minimum subdivision lot size of LEP 2014. The objectives are:

- (a) to minimise the cost to the community of:
 - (i) fragmented and isolated development of rural land, and*
 - (ii) providing, extending and maintaining public amenities and services,**
- (b) to ensure that the character and landscape setting of an area is protected and enhanced by any development,*
- (c) to promote development on appropriately sized lots and to ensure access to available essential services.*

As discussed above, the proposed subdivision is not considered to be consistent with the existing character of the Marangaroo Fields Estate. The creation of a rear "battle-axe" lot that relies on the area of the access handle to achieve the minimum lot size is out of character with the prevailing subdivision pattern. There are no other similar lots in the estate. As noted above, Council's current civil engineering design guidelines do not encourage the development of battle-axe lots.

In relation to this issue, the applicant provided the following response:

- *In support of my request to have the access handle included in the calculation of the allotment MLS, we are willing to amend the original proposal by removing the existing concrete driveway, from a point adjacent to the existing rear verandah. This would provide additional area for landscaping around the new access driveway for the rear lot and remove the amount of hardstand area as viewed from Pimpala St thereby helping to retain the current amenity of the area. It would also create additional impervious area to assist with onsite stormwater detention. Also of interest is the approach that Blacktown Council adopts in accessing the area of battle-axe allotments with the part of the access handle greater than 8m being included in the MLS calculation.*

The removal of the existing concrete driveway would assist in reducing the extent of hard surfaces and provide additional landscaping opportunity to soften the appearance of a future development and driveway on the rear lot. However, the visual impact of a future dwelling or dual occupancy on the rear lot cannot be assessed as part of this application. While a relatively small single storey dwelling on the rear lot may have minimal visual impact (as evidenced by the dual occupancy on the adjoining lot), a large two storey "main" dwelling potentially has a negative visual impact. Further, the potential for dual occupancy development on both lots would be likely to have a negative impact on the character and landscape setting of the estate.

The applicant has advised that they are willing to restrict the development of a dual occupancy on the rear lot by applying an 88B restriction on the new lot to not allow this type of development. The application of a S88B restriction to prevent a dual occupancy on the rear lot would be similar to the existing restriction relating to one main dwelling, in that it could only be enforced if Council was a party to the covenant and as a separate matter to the assessment of a development application for a dual occupancy on the lot which is permissible with consent.

The property is subject to groundwater vulnerability. The development is designed and, if the application were to be approved, will be managed to avoid any significant adverse environmental impact. The development is not expected to have contamination impacts as the use of the land will remain. A NorBE assessment was undertaken for the development and was found to be satisfied. The NorBE assessment is found later in this report.

State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011

SEPP (Sydney Drinking Water Catchment) 2011 – Compliance Check		
	Clause	Compliance
10	Development consent cannot be granted unless neutral or beneficial effect on water quality	Yes
11	Development that needs concurrence of the Chief Executive	N/A

Comment: The application is required to be assessed using the Neutral or Beneficial Effect on Water Quality Assessment Tool as below. Given the development satisfies this assessment the development complies with the SEPP.

NEUTRAL OR BENEFICIAL EFFECT ON WATER QUALITY ASSESSMENT TOOL

General Information:

Council Name	Lithgow City
Date	11 October 2018
DA Number	170/18
Assessing Officer	Lauren Stevens

Development Class	Subdivision sewered <=3 lots
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Assessment Summary:

NorBE Status:	Determined	User Outcome:	Satisfied
System Outcome:	Satisfied	Determination date:	11 October 2018
Determination outcome:	Granted		

Pre- Assessment Checklist:

Located within Sydney drinking water Catchment	Yes
Is development consistent with any existing SCA 88B Instruments on title?	N/A
Crown perpetual leasehold land?	No
Water quality impact identifies?	Yes
Concentration of flow of water?	No
Flow of water impeded?	No
Discharge of pollutants?	Yes
Any other matter?	Yes
Documentation is completed?	Yes
Does Water Cycle management Study meet SCA/Council requirements?	N/A

5.3.2 Any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority

Nil.

5.3.3 Any Development Control Plan

Nil.

5.3.4 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?

Nil.

5.3.5 Any matters prescribed by the regulations that apply to the land

The development has been forwarded to Council’s Building Officer for assessment under appropriate regulations. If the application were to be approved, conditions of consent relating to the demolition of the garage would be imposed.

5.3.6 The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

Adjoining Landuse: The surrounding area is generally for low density residential purposes, with the Lithgow Golf Club adjoining the property to the rear. A dual occupancy development exists on the adjoining lot to the west, however this is not typical of development in the Marangaroo Fields Estate, though dual occupancy development is permitted with consent. The majority of lots in the estate have a relatively regular shape taking into account the street layout. There are no other “battle-axe” lots currently in the estate. The typical form of development in the estate is large dwellings, with generous setbacks and established landscaping on large yards. The proposal is not considered to be consistent with the character of existing development in the estate.

Services: The subdivision can be serviced with both water and sewer provided a sewer main extension is created to service the existing Lot 1 and burden proposed lot 2. An easement would be required over the new sewer main. The existing house on Lot 1 would need to provide a new connection to the sewer main extension. A new water meter will be required to service the new lot.

The existing dwelling located on proposed Lot 1 will have no change to existing stormwater disposal. Any future development on Lot 2 is proposed to run into the an overland flow path and pit located on the golf course land north of the property.

Additionally, there is access to electricity and telecommunication services nearby. Therefore, it is considered that the proposal will be adequately serviced.

Context and Setting: The Marangaroo Fields Estate was established with a low density residential rural residential character. The aims of the former Marangaroo Fields Estate DCP included "*to provide a residential environment which has a distinctly rural atmosphere*" and "*to restrict the density of development within the area so as to maintain its rural character*". The estate has developed with this character and no recent developments have resulted in any significant change to this character.

The proposed subdivision has the potential to significantly change the character of the estate, through a more residential scale and density of development on the proposed lots, and through the precedent it sets for future similar developments.

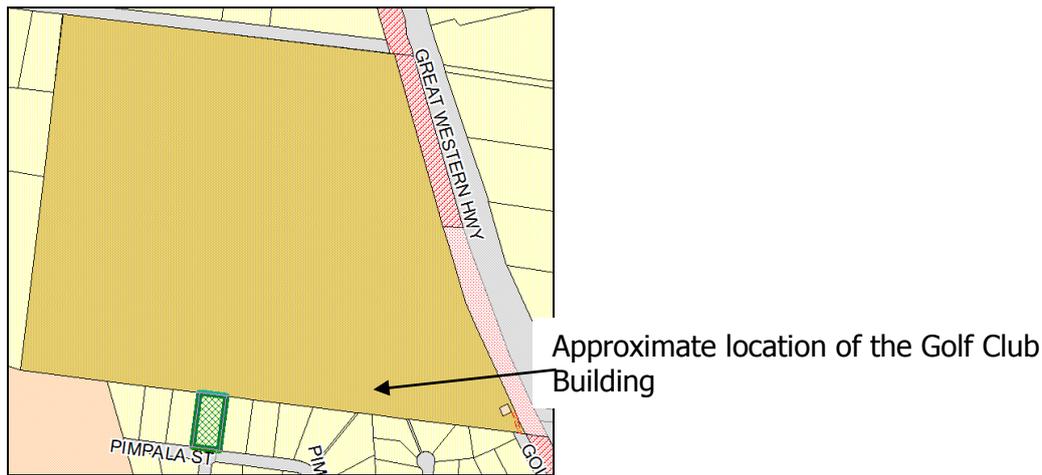
Access/ traffic: Access to both lots is proposed to be from Pimpala Street. Access to the dwelling on proposed Lot 1 is existing. The second lot would be accessed from a new driveway along the eastern boundary, which would be in excess of 56m in length.

The potential for a dual occupancy development to be erected on the rear lot and an additional dwelling to create a dual occupancy (or secondary dwelling) on the front lot would create additional traffic in an estate that has access issues, including a constrained intersection with the Great Western Highway.

Heritage: The property is not heritage listed or contains heritage items. The property adjoins the Lithgow Golf Club which is a heritage item under Council's LEP 2014.

The golf club building was built approximately 1880 as a two storey house with orchards, cultivation paddocks and gardens. For the past 60 years the house has been utilised as the golf club with the surrounding paddocks turned into the golf course. Overtime alterations have been undertaken to the club.

The development is not proposed to impact the heritage significance of the Golf Club building as the property is located approximately 350m from apart and is separated by scattered vegetation.



Flora and Fauna: No proposed clearing is required and the development will have no impact on flora or fauna.

Social and Economic Impact: The potential for the development to result in a change to the character of the Marangaroo Fields Estate is likely to have negative social impacts on existing residents of the estate. Were the application to be approved, it is likely that similar subdivision proposals would be submitted to Council adding to the change in character of the estate and placing a greater burden on local services and infrastructure, with negative economic impacts for the broader community.

Soils: The proposed development will have no significant impact on soils. There is no reason to believe the site would be affected by acid sulphate soil or contamination problems.

Water: The proposed development has been assessed using the NorBE tool as required by the *State Environmental Planning Policy (Sydney Catchment Drinking Water) 2011* with a result of satisfied. If the application were to be approved, appropriate conditions would be placed on the development consent.

Air and Microclimate: There will be no significant impact on air or microclimate.

Natural Hazards: The land is not subject to bushfire or flooding.

Noise and Vibration: There are no nearby sources of noise or vibration that would impact detrimentally the proposal. The proposal is not expected to cause any noise issues in the surrounding area, given it is for a subdivision.

Other Land Resources: The development will not impact on the value of the land in terms of agricultural potential or mining as it is zoned for residential purposes and adjacent to an established residential area.

5.3.7 The Suitability of the site for the development

To achieve compliance with the minimum lot size, the proposed subdivision relies on including the area of the access handle in the calculation of the size of the rear lot. While there are no current provisions prohibiting this, it is not a desirable outcome for the subject site. The effective area of the rear lot on which a dwelling or dual occupancy could be provided, along with other residential outbuildings, private open space and landscaping area, is less than 1500m². The need for an access

handle greater than 56m in length and the lack of structured stormwater disposal also result in the site not being suitable for the proposed development.

5.3.8 Any submissions made in accordance with this Act or the Regulations

The proposal was sent to Council's Building Officer, Water & Wastewater Officer and Engineers for commenting with recommendations detailed below. The proposal was also sent to surrounding landowners and placed on public display in Council's Administration Building for a period of 14 days with two submissions received which are summarised below.

COUNCIL'S BUILDING OFFICER

Should the development application be approved, the following conditions would apply in relation to the demolition of the shed and the existing swimming pool and fencing:

- **Demolition of shed**

The demolition works shall be executed, by competent persons with due regard at all times for safe working practices. The demolition works must be carried out in accordance with AS2601-2001, 'The demolition of structures'. A copy of the Work Plan and Waste Management Plan shall be submitted to Council prior to commencement of works.

The structure to be demolished and all its components shall be maintained in a stable and safe condition at all stages of the demolition work.

That minimal disturbance is caused to the site during construction works

All demolished material and excess spoil from the site shall be disposed of at the Lithgow Waste Management facility in a location and in a manner approved of by Council and its contractor.

- **Existing Swimming Pool and fencing**

During demolition of the shed and subdivision works the swimming pool fencing/barrier shall be maintained in accordance with Australian Standard 1926.1:2012 Safety barriers for swimming pools.

All demolition and construction materials and associated items shall not be stored or located within the non-climbable zone (not less than 900mm radius from the top of the outside of the pool fence) in accordance with Australian Standard 1926.1:2012 Safety barriers for swimming pools.

COUNCIL'S WATER & WASTEWATER OFFICER

Should the development application be approved, conditions would be required to be imposed to address the following issues:

- A sewer main extension is required to service the existing Lot 1 and burden proposed Lot 2. An easement would be required over the new sewer main. The existing house on Lot 1 would need to provide a new connection to the sewer main extension.
- A new water meter would be required for proposed Lot 2.

COUNCIL'S ENGINEERS

The following comments were provided by Council's Engineers:

- The existing stormwater drainage system was designed with capacity for the existing level of development and features roadside open swales which are more consistent with the large lot style of the subdivision.
- Access to the development is provided from the Great Western Highway by a single lane bridge over the rail corridor with minimal storage space between the bridge and the Highway. It should be noted that an approved extension of the residential area towards the south requires the construction of a second bridge over the rail corridor.
- This development proposes the subdivision of an existing 4000sqm lot into two separate 2000sqm lots. The surrounding lots in the residential subdivision are all of similar size to the existing allotment. Whilst the subdivision of this allotment is unlikely to have a substantial impact on the capacity of the existing services, the combined effect of multiple subdivisions of this type occurring could potentially exceed the capacity of some existing services (including the stormwater system and the single lane bridge into the development).
- It is recommended that no further subdivision occurs within the residential area unless/until capacity improvements are made to the services mentioned in the above comments.
- Should the development application be approved, the following condition should be placed on any development consent:
 - The Concrete driveway is to be constructed in accordance with Lithgow City Council's "Specification for the construction of Driveways, Footpath/Gutter Crossings and Footpaving" (Policy 10.18). A copy is available on Council's website, or on request from Council's Administration.

To prevent disruption to the flow of stormwater through the table drain at the front of the allotment, one of the following must be installed:

1. A concrete dish drain constructed in accordance with standard drawing EN
2. A minimum 300mm diameter pipe installed, with headwalls attached on each side of the piped culvert. The pipe is to be of a reinforced concrete standard with precast headwalls, with a minimum cover of 300mm. The pipes and headwalls are to be formed in such a way as to not obstruct the flow of water through the existing table drain.

Note: Any future development on the lot will need to be designed to direct stormwater into Council's existing Stormwater Infrastructure.

PUBLIC SUBMISSIONS

Two objections were lodged in response to the notification of the development application, raising the following concerns:

- The proposal is inconsistent with the country style living that is expected by residents in the Marangaroo Fields Estate.
- The proposal would convert the estate into suburbia.
- The proposal will set a precedent that will result in an unacceptable strain on the present infrastructure and facilities.

- Further subdivision in the estate would require the one lane bridge access to the estate to be addressed.
- The proposal is inconsistent with the development standards that previously applied in the Marangaroo Fields Estate DCP.
- A battle-axe lot is not in keeping with a rural style subdivision.
- The proposal will result in additional residences close to the golf course, raising issues of personal injury and property damage from errant golf balls.

The applicant provided the following response to the issues raised in submissions:

- *The proposed development is compatible with the low density residential amenity of the area. Marrangaroo Field is not a rural estate. The proposed allotment will adopt the same open style fencing that is dominant throughout the estate, with dwelling setbacks that are consistent with those on existing lots. The allotment is of a size and scale that is consistent with that of other allotments in the locality, and in reality will be no more obtrusive than the dual occupancy development located on the adjoining lot.*
- *The proposal is consistent with the intent of the R2 – Low Density Residential zone and does not undermine the zone objectives. The concept of "suburbia" is subjective and in literal terms means "the outer parts of a town, where there are houses, but no large shops, places of work, or places of entertainment". Perhaps for some Marrangaroo Fields is already suburbia??*
- *The proposed development meets the development standards set in the Lithgow LEP 2014. The idea of precedent is managed through strategic planning processes. The establishment of the minimum lot size at 2000m² has already set the standard and precedent for lot sizes in this locality. Council has already approved a subdivision of another allotment at 14 Pimpala St into 2 allotments of approx. 2000m² each. This decision supports the planning objectives set for this area. The existing services in the locality including water, sewer, electricity, gas and telephone are all available to the allotment with no major upgrades required to cater for the development.*
- *The proposed subdivision will only generate an additional 6 vehicle movements per day. This amount of traffic would not warrant upgrading of the access bridge.*
- *The DCP has been repealed and even if it were still current, cannot be any more restrictive than the development standards in the Lithgow LEP. The development does however predominantly still meet the main objectives of the old DCP which was to primarily retain that rural/residential amenity. The siting of the dwelling back from the road, does more to maintain this amenity in my view than additional allotments with street frontage. With appropriate landscaping, design and siting, the rear dwelling will be obscured from the Pimpala St frontage and will address the public open space to the rear. The dwelling located on 29 Pimpala St does not have living or outdoor areas that have direct views over the new lot and the house on 31 Pimpala St, while having its outdoor areas orientated with views to the east, would have its views of the new dwelling obscure by the existing double colourbond garage located on the rear of 29 Pimpala St. The bulk and scale of the new dwelling can be adequately obscured from view lines with appropriately placed tree planting and landscaping.*
- *While it is acknowledged that this subdivision is the first in the estate to create a battle axe allotment, a number of allotments off Windarra Drive are irregular in shape and are not considered out of keeping with the character of the area. This development will still retain the important building elements of rural type fencing and generous building setbacks that reinforce the open and rural nature of the area. Also, the retention of existing landscape features and mature trees on the allotments and the incorporation of new and strategically placed landscaping features will assist in integrating the new allotment into the existing subdivision pattern. It is noted that the adjoining Marrangaroo Estate subdivision that was approved by Council recently does include numerous battle axe allotments also. While the use and application of battleaxe allotments is not ideal, it*

does have its place particularly in infill development situations to make best use of serviced and appropriately zoned land. Most LEP across NSW allow battleaxe developments in appropriate infill and greenfield locations.

- *The design of the 8th hole and tee placement directs golf ball away from the allotment.*

5.3.9 The public interest

The public interest issues raised in submissions to the proposal relate to impacts on the character and density of the Marangaroo Fields Estate. The applicant has provided responses to these issues, however it is considered that the proposal would remain inconsistent with the character of the location and will likely lead to further subdivision proposals increasing the density of the estate. It is not considered that the proposal is in the public interest.

6. DISCUSSION AND CONCLUSIONS

While the proposal complies with the relevant provisions of the applicable Environmental Planning Instruments, it is not considered to be consistent with the zone or subdivision objectives and is considered to be inconsistent with the prevailing subdivision pattern and character of the Marangaroo Fields Estate. The proposal, and the resultant likelihood of additional subdivision proposals, is considered likely to have a negative impact on the amenity of the locality. As such it is recommended that the development application be refused for the reasons outlined below.

7. ATTACHMENTS

Nil

8. RECOMMENDATION

THAT development application DA 170/18 is refused for the reasons outlined below.

Report prepared by: Mark Hitchenson Supervisor: Lauren Stevens

Signed:..... Signed:.....

Dated:..... Dated:.....

REASONS FOR REFUSAL

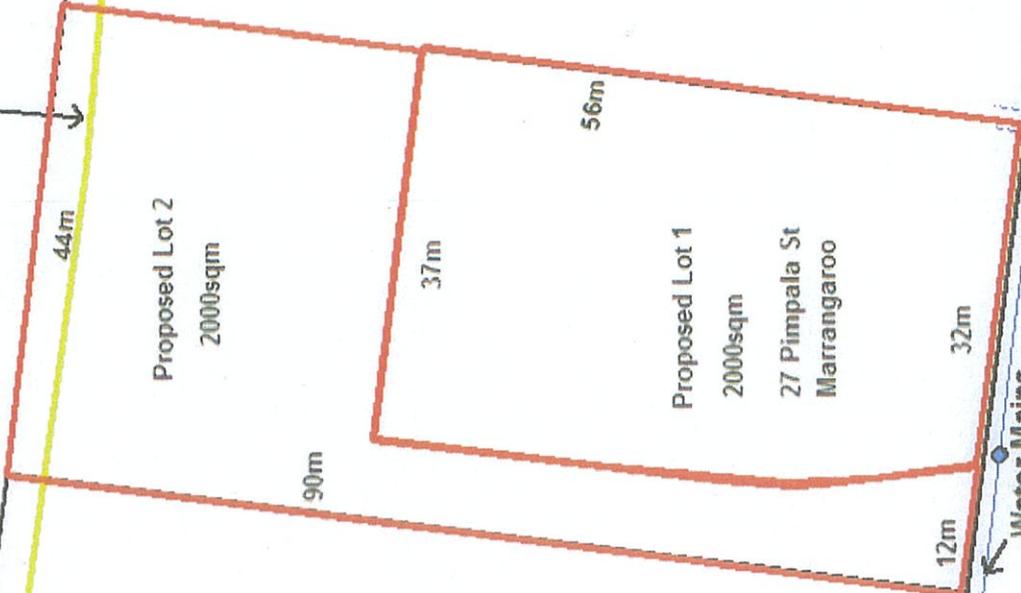
- The application has been assessed pursuant to Section 4.15 of the Environmental Planning and Assessment Act 1979 and it is considered that the development is likely to have detrimental impacts on the character of the locality and the site is not considered suitable for the development,
- The proposed subdivision is inconsistent with the R2 Low Density Residential Zone objectives in Lithgow Local Environmental Plan 2014,
- The proposed subdivision is inconsistent with the objectives of clause 4.1 Minimum Subdivision Lot Size in *Lithgow Local Environmental Plan 2014*,
- The proposed subdivision is inconsistent with the existing subdivision pattern in the locality,

- The proposed subdivision results in the potential for significant additional development on the lot that would not be in keeping with the character of the locality.
- .
- The proposed subdivision is inconsistent with the objectives of clause 4.1 Minimum Subdivision Lot Size in Lithgow Local Environmental Plan 2014.

Proposed Subdivision
Lot 34 DP 793965



Sewer Mains



Proposed Lot 2
2000sqm

Proposed Lot 1
2000sqm
27 Pimpala St
Marrangaroo

PIMPALA STREET

Water Mains