

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA20/0598
Description of development:	Demolition of Existing Structures & Torrens Title Subdivision x 4 Lots
Classification of development:	N/A

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 13 DP 975378 Lot 1 DP 530541
Property address:	26 Paskin Street, KINGSWOOD NSW 2747 23 Second Avenue, KINGSWOOD NSW 2747

DETAILS OF THE APPLICANT

Name & Address:	Richard Hogan & Co Pty Ltd PO Box 4365 PENRITH PLAZA NSW 2750
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DECISION OF CONSENT AUTHORITY

In accordance with Section 4.18(1) (a) of the Environmental Planning and Assessment Act 1979, consent is granted subject to the conditions listed in attachment 1.

Please note that this consent will lapse on the expiry date unless the development has commenced in that time.

Date from which consent operates	24 November 2021
Date the consent expires	24 November 2026
Date of this decision	22 November 2021

POINT OF CONTACT

If you have any questions regarding this determination you should contact:

Assessing Officer:	Sufyan Nguyen
Contact telephone number:	+61247328568

NOTES

Reasons

The conditions in the attached schedule have been imposed in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 as amended.

Conditions

Your attention is drawn to the attached conditions of consent in attachment 1.

Certification and advisory notes

You should also check if this type of development requires a construction certificate in addition to this development consent.

It is recommended that you read any Advisory Note enclosed with this notice of determination.

Review of determination

The applicant may request Council to review its determination pursuant to Division 8.2 of the Environmental Planning and Assessment Act 1979 within twelve months of receiving this Notice of Determination.

These provisions do not apply to designated development, complying development or crown development pursuant to Section 8.2(2) of the Environmental Planning and Assessment Act 1979.

Appeals in the Land and Environment Court

The applicant can appeal against this decision in the Land and Environment Court within twelve months of receiving this Notice of Determination.

There is no right of appeal to a decision of the Independent Planning Commission or matters relating to a complying development certificate pursuant to clause 8.6(3) of the Environmental Planning and Assessment Act 1979.

Designated development

If the application was for designated development and a written objection was made in respect to the application, the objector can appeal against this decision to the Land and Environment Court within 56 days after the date of this notice.

If the applicant appeals against this decision, objector(s) will be given a notice of the appeal and the objector(s) can apply to the Land and Environment Court within 56 days after the date of this appeal notice to attend the appeal and make submissions at that appeal.

Sydney Western City Planning Panels

If the application was decided by the Sydney Western City Planning Panel, please refer to Section 2.16 of the Environmental Planning and Assessment Act, 1979 (as amended) for any further regulations.

ATTACHMENT 1: CONDITIONS OF CONSENT

General

- 1 The development must be implemented substantially in accordance with the following plans and documents stamped approved by Council, the application form and any supporting information received with the application, except as may be amended in red on the stamped approved plans and by the following conditions.

Drawing Title	Prepared By	Project No.	DWG No.	Issue	Date
Plan of Proposed Subdivision Lot 13 Section 4 DP975378 & Lot 1 DP530541 22 Parkin St & 23 Second Avenue, Kingswood	Richard Hogans & Co	–	DA-201	D	July 2020
Stormwater Concept Plan Ground Floor Plan	SGC	20200337	SW200	A	29/10/21
Stormwater Concept Plan Details Sheet	SGC	20200337	SW300	A	29/10/21

Documents

- Aborigicultural Impact Appraisal - 26 Paskin Street & 23 Second Avenue, Kingswood, NSW prepared by Naturally Trees, dated 7 September 2021;
- Assurance Certificate of Secure Burial prepared by Suez Environment, Weighbridge Ticket No. ED170114756.0, dated 8 September 2021;
- Excavated Natural Material Assessment prepared by BHM Geotechnical, Reference: GAC 2099 – AA Rev.0, dated 26 August 2021; and
- Material Clearance Certificate prepared by BHM Geotechnical, Reference: GAC 2099 – AB Rev.0, dated 15 September 2021;

- 2 Approved Lots 1, 2 and 3 shall not be developed or sold individually as vacant lots. The lots shall be developed by a single builder and designed as a house and land package. Each dwelling is to have a maximum of one single garage. The allotments are to be sold as house and land packages with the necessary development approval gained.

The above requirements are to be reflected in a positive covenant on the lot titles pursuant to Section 88B of the Conveyancing Act 1919. The related Section 88B instrument shall accompany the related Subdivision Certificate application.

3 Prior to the issue of a Subdivision Works Certificate:

(a) An easement for drainage and overland flow being a minimum of 2.5m wide shall be provided in Lot 25 in DP 1069009. Evidence of registration of the easement with Land and Registry Services (LRS) shall be submitted to Penrith City Council, prior to the issue of a Subdivision Works Certificate. Easement widths shall be in accordance with Penrith City Council's Stormwater Drainage Specification for Building Developments Policy, and

(b) The stormwater works within the easement are to be designed in accordance with the approved Section 68 Approval, issued by Penrith City Council.

- 4 **Prior to the issue of a Subdivision Certificate**, any drainage works within Lots which rely on the easement for interallotment drainage works shall be completed.

Demolition

- 5 All structures on the subject site are to be demolished as part of the approved works.
- 6 All demolition works are to be conducted in accordance with the provisions of AS 2601-1991 "The Demolition of Structures". **Prior to demolition**, all services shall be suitably disconnected and capped off or sealed to the satisfaction of the relevant service authority requirements.

All demolition and excavated material shall be disposed of at a Council approved site or waste facility. Details of the proposed disposal location(s) of all excavated material from the development site shall be provided to the Principal Certifying Authority **prior to commencement of demolition**.

- 7 You should read Council's Fact Sheet titled "Handling and Disposal of Fibrous Cement Products" **before any demolition works commence on site**.

Prior to commencement of demolition works on site, a portaloo with appropriate washing facilities shall be located on the site and the Principal Certifying Authority is to be satisfied that:

- Measures are in place so as to comply with the WorkCover Authority's "Short Guide to Working with Asbestos Cement" and
- The person employed to undertake the works is a licensed asbestos removal contractor and is holder of a current SafeWork Asbestos Licence.

Any demolition works involving the removal of asbestos shall only be carried out by a licensed asbestos removal contractor who has a current SafeWork Asbestos Licence.

All asbestos laden waste, including asbestos cement flat and corrugated sheeting must be disposed of at a tipping facility licensed by the Environment Protection Authority to receive asbestos wastes.

- 8 Dust suppression techniques are to be employed during demolition to reduce any potential nuisances to surrounding properties.
- 9 Mud and soil from vehicular movements to and from the site must not be deposited on the road.
- 10 Demolition works shall be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:
- Mondays to Fridays, 7am to 6pm
 - Saturdays, 7am to 1pm if inaudible on neighbouring residential premises, otherwise 8am to 1pm
 - No demolition work is permitted on Sundays and Public Holidays.

In the event that the demolition relates to works inside the building that does not involve external walls or the roof and does not involve the use of equipment that emits noise then the demolition works are not restricted to the hours stated above.

The provisions of the Protection of the Environment Operations Act 1997 in regulating offensive noise also apply to all construction works.

Environmental Matters

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

Certification that the erosion and sediment control measures have been installed in accordance with the approved erosion and sediment control plan (s) for the development and "Managing Urban Stormwater: Soils and Construction 2004" shall be obtained and issued a minimum 2 days before any other site works are to commence, including earthworks and clearing of the site.

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

- 12 No fill material shall be imported to the site until such time as a Validation Certificate(with a copy of any report forming the basis for the validation) for the fill material has been submitted to, considered and approved by Council. The Validation Certificate shall:
- state the legal property description of the fill material source site,
 - be prepared by an appropriately qualified person (as defined in Penrith Land Development Control Plan 2014) with consideration of all relevant guidelines (e.g. EPA, ANZECC, NH&MRC), standards, planning instruments and legislation,
 - provide details of the volume of fill material to be used in the filling operations,
 - provide a classification of the fill material to be imported to the site in accordance with the Environment Protection Authority's "Environmental Guidelines: Assessment, Classification & Management of Non-Liquid Wastes" 1997, and
 - (based on the fill classification) determine whether the fill material is suitable for its intended purpose and land use and whether the fill material will or will not pose an unacceptable risk to human health or the environment.

{Note: Penrith Development Control Plan 2014 defines an appropriately qualified person as "a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, eco-toxicology, sampling and analytical procedures, risk evaluation and remediation technologies. In addition, the person will be required to have appropriate professional indemnity and public risk insurance."}.

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

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

recycled or disposed of in accordance with the approved waste management plan.

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

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

Utility Services

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

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

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

Construction

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

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

Other construction works carried out inside a building/tenancy that do not involve the use of equipment that emits noise are not restricted to the construction hours stated above.

The provisions of the Protection of the Environment Operations Act 1997 in regulating offensive noise also apply to all construction works.

Engineering

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

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

An application form together with an information sheet and conditions are available on Council's website.

Contact Penrith City Council's Asset Management Department on 4732 7777 or visit Penrith City Council's website for more information.

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

- a) Road opening for utilities
- b) Road occupancy or road closures
- c) The placement of hoardings, structures, containers, waste skips, signs etc. in the road reserve
- d) Temporary construction access
- e) Pavement and kerb/pram ramp installation.

All works shall be carried out in accordance with the Roads Act approval, the development consent, including the stamped approved plans, and Penrith City Council's specifications, guidelines and best engineering practice.

Contact Penrith City Council's Asset Management Department on 4732 7777 or visit Penrith City Council's website for more information.

Note:

- Where Penrith City Council is the Certifier for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate or Subdivision Works Certificate.
 - Separate approval may be required from Transport for NSW for classified roads.
 - All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate or Subdivision Certificate as applicable.
 - On completion of any awning over the road reserve, a certificate from a practising structural engineer certifying the structural adequacy of the awning is to be submitted to Council before Council will inspect the works and issue its final approval under the Roads Act.
- 21 Prior to the issue of any Subdivision Works Certificate, the Certifier shall ensure that a Section 138 Roads Act application, including payment of application and inspection fees, has been lodged with and approved by Penrith City Council (being the Roads Authority under the Roads Act) for provision of a 1.5m wide concrete footpath for the full frontage of the site in Second Avenue and Paskin Street, Kingswood. Kerb ramps shall be provided along Second Avenue and both sides of Paskin Street at the street intersection corners to Council requirements. The above works shall be complete prior to the issue of an Occupation Certificate.

Engineering plans are to be prepared in accordance with the development consent, Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments, Engineering Construction Specification for Civil Works, Austroads Guidelines, and best engineering practice.

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

Note:

- Where Penrith City Council is the Certifier for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate or Subdivision Works Certificate.
- Separate approval may be required from the Transport for NSW for classified roads.
- All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate or Subdivision Certificate as applicable.

- 22 Prior to the issue of any Subdivision Works Certificate, the Certifier shall ensure that an application under Section 68 of the Local Government Act, including payment of application and inspection fees, has been lodged with and approved by Penrith City Council for provision of stormwater drainage works and connection to Council's trunk drainage system in Lot 25 DP 1069009.

Engineering plans are to be prepared in accordance with the development consent, Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments, Engineering Construction Specification for Civil Works, Austroads Guidelines, and best engineering practice.

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

Note: All works associated with the Section 68 Local Government Act approval must be completed prior to the issue of a Subdivision Certificate.

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

Prior to the issue of any Subdivision Works Certificate, the Certifier shall ensure that engineering plans are consistent with the stamped approved plans prepared by SGC, reference number 20200337, DWG number SW100 - SW300, revision A, dated 29/10/2021, and that all subdivision works have been designed in accordance with the development consent, Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments, Engineering Construction Specification for Civil Works, Austroads Guidelines and best engineering practice.

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

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

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

Note:

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

- 24 Prior to the issue of a Roads Act Approval, a Performance Bond is to be lodged with Penrith City Council for the construction of a 1.5m wide concrete footpath for the full frontage of the site in Second Avenue and Paskin Street, Kingswood.

The value of the bond shall be determined in accordance with Penrith City Council's adopted Fees and Charges.

Note:

- Contact Penrith City Council's Development Engineering Department on 4732 7777 for further information relating to bond requirements.

- 25 Work on the subdivision shall not commence until:

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

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

- 26 Upon completion of all works in the road reserve, all verge areas fronting and within the development are to be turfed. The turf shall extend from the back of kerb to the property boundary, with the exception of concrete footpaths, service lids or other infrastructure which is not to be turfed over. Turf laid up to concrete footpaths, service lids or other infrastructure shall finish flush with the edge.
- 27 Prior to the issue of any Subdivision Certificate, the Principal Certifier shall ensure that all works associated with a S138 Roads Act approval and S68 Local Government Act approval have been inspected and signed off by Penrith City Council.
- 28 Prior to the issue of any Subdivision Certificate, the Principal Certifier shall ensure that all subdivision works required by this consent have been satisfactorily completed or that suitable arrangements have been made with Penrith City Council for any outstanding works.
- 29 Prior to the issue of any Subdivision Certificate, a 4x4m splay corner at the intersection of Second Avenue and Paskin Street, Kingswood is to be dedicated as public road to Penrith City Council on a plan of subdivision registered with Land Registry Services (LRS). The dedication of public road and subsequent registration shall be at no cost to Penrith City Council.
- 30 Prior to the issue of any Subdivision Certificate, a Maintenance Bond is to be lodged with Penrith City Council for the construction of a 1.5m wide concrete footpath for the full frontage of the site in Second Avenue and Paskin Street, Kingswood.

The value of the bond shall be determined in accordance with Penrith City Council's adopted Fees and Charges.

Note:

- Contact Penrith City Council's Development Engineering Department on 4732 7777 for further information relating to bond requirements.

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

a) Works As Executed (WAE) drawings of all civil works. The WAE drawings shall be marked in red on copies of the stamped Subdivision Works Certificate drawings signed, certified and dated by a registered surveyor or the design engineer. The WAE drawings shall be prepared in accordance with Penrith City Council's Engineering Construction Specification for Civil Works.

b) CCTV footage in DVD format to Penrith City Council's requirements and a report in "SEWRAT" format for all drainage as identified as Council's future assets. Any damage that is identified is to be rectified in consultation with Penrith City Council.

c) Surveyor's Certificate certifying that all pipes and services are located wholly within the property or within appropriate easements and that no services encroach boundaries, private or public lands.

d) Structural Engineer's construction certification for any structures where applicable.

e) A slope junction plan for inter-allotment drainage lines indicating distances to boundaries and depths.

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

a) Easements for drainage over any inter-allotment drainage.

Subdivision

33 **Prior to the issue of the Subdivision Certificate**, the following is to be submitted:

An original plan of subdivision and associated administration sheets. The plan of subdivision must indicate, where relevant -

- All drainage easements, rights of way, restrictions and covenants.
- All proposed dedications of roads/drainage/public reserve, which are to be undertaken at no cost to Penrith City Council.

The following information is to be shown on one (1) copy of the plan.

- The location of all buildings and/or other permanent improvements shall comply with any statutory boundary clearances or setbacks as defined by the Building Code of Australia and Council's resolutions.
- All existing services are wholly contained within the lot served and/or covered by an appropriate easement.

Prior to lodgement of the Subdivision Certificate Application, street address numbering must be obtained/approved by Penrith City Council's Rates Team. Proposed street addresses can be forwarded to council@penrith.city for approval.

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

Section 94

35 This condition is imposed in accordance with Penrith City Council's Development Contributions Plan for District Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$12.666.00 is to be paid to Council prior to a Construction Certificate being issued for this development** (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted contributions plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

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

36 This condition is imposed in accordance with Penrith City Council's Development Contributions Plan for Local Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$4,583.00 is to be paid to Council prior to a Construction Certificate being issued for this development** (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted contributions plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

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

37 This condition is imposed in accordance with Penrith City Council's Development Contributions Plan for Cultural Facilities. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$1,164.00 is to be paid to Council prior to a Construction Certificate being issued for this development** (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted contributions plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

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

Certification

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

SIGNATURE

Name:	Sufyan Nguyen
Signature:	

For the Development Services Manager