

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA18/0714
Proposed development:	Torrens Title Subdivision x 3 Lots and Ancillary Drainage Works
Property address:	3991 Jordan Springs Boulevard, JORDAN SPRINGS NSW 2747 3990 Jordan Springs Boulevard, JORDAN SPRINGS NSW 2747
Property description:	Lot 3991 DP 1190132 Lot 3990 DP 1190132
Date received:	26 July 2018
Assessing officer	Jane Hetherington
Zoning:	URBAN ZONE (SREP30 - ST MARYS)
Class of building:	N/A
Recommendations:	Approve

Executive Summary

Council is in receipt of a development application for Torrens title subdivision x 3 lots and ancillary drainage works at Lot 3990 & Lot 3991 Jordan Springs Boulevard, Jordan Springs. The subject site is zoned Urban under the provisions of Sydney Regional Environmental Plan No. 30 St Marys. Subdivision is a permissible land use under Clause 45.

The application was advertised and notified in accordance with Penrith Development Control Plan 2014. No submissions were received in response.

The proposal is defined as Integrated Development under Section 4.46 of the *Environmental Planning and Assessment Act 1979*, requiring an approval under the *Water Management Act 2000*, Sections 89, 90 & 91 and the *Rural Fire Act 1997*, Section 100B.

An assessment under Section 4.15 of the *Environmental Planning and Assessment Act 1979* has been undertaken and the application is recommended for approval, subject to recommended conditions.

Site & Surrounds

Properties of the site

The site consists of Lots 3990 and 3991, DP 1190132, Jordan Springs Boulevard, Jordan Springs. The site is irregular in shape and has a total area of 5.93 hectares and a frontage of approximately 238.46m to Jordan Springs Boulevard and 78.09m to Lakeside Parade. The site is currently vacant, with a fall from north-west to south-east and vehicular access is provided from Jordan Springs Boulevard and Lakeside Parade.

Site constraints

- The site is burdened by a number of easements.
- A mapped watercourse transects the site.
- The site is partially mapped as bushfire prone land.
- Vegetation on the site is mapped as Shale Plains Woodland.

Proposal

The proposal is for Torrens title paper-plan subdivision into 3 super lots and involves the following:

- Proposed lot 1 has an area of 3.141 hectares with a 145.57 frontage to Jordan Springs Boulevard.
- Proposed lot 2 has an area of 5,004m² with a 58.25m frontage to Jordan Springs Boulevard and 78.09m frontage to Lakeside Parade.
- Proposed Lot 3 has an area of 2.294 hectares with a 34.64m frontage to Jordan Springs Boulevard.
- Minor stormwater works including the provision of pits and pipe benefiting proposed lot 2.

Plans that apply

- Western Precinct
- State Environmental Planning Policy No 55—Remediation of Land
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River
- Sydney Regional Environmental Plan No.30 - St Marys

Planning Assessment

• Section 4.15 - Evaluation

The development has been assessed in accordance with the matters for consideration under Section 4.15 (formerly Section 79C) of the *Environmental Planning and Assessment Act 1979*, and having regard to those matters, the following issues have been identified for further consideration.

• Section 4.46 - Integrated development

The proposal is defined as Integrated Development under Section 4.46 of the *Environmental Planning and Assessment Act 1979*, requiring an approval under the *Water Management Act 2000*, Section 89, 90 & 91 and the *Rural Fire Act 1997*, Section 100B.

Accordingly, the application was referred to the NSW Natural Resources Access Regulator (NRAR) and the NSW Rural Fire Service (RFS) on 6 August 2018.

In response, the NSW RFS issued their General Terms of Approval dated 8 October 2018, raising no objection to the proposal subject to conditions.

In response, the NRAR issued their GTAs dated 21 November 2018, raising no objection to the proposal subject to conditions.

Section 79C(1)(a)(i) The provisions of any environmental planning instrument

State Environmental Planning Policy No 55—Remediation of Land

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55) aims to provide a framework for the assessment, management and remediation of contaminated land throughout the state. Clause 7(1) of SEPP 55 prevents Council from consenting to a development unless it has considered whether the land is contaminated, and is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out.

The application was accompanied by a Site Validation Report, prepared by Alliance Geotechnical and dated 11 July 2018. This report concludes that:

- The contamination status of the broader site is considered unlikely to have materially changed since the issue of a site audit statement in 1999.
- Stockpiles SP02 and SP03 to SP11 have been adequately removed from site.
- The site is suitable for the proposed land use setting (in the context of land contamination) subject to ongoing implementation of the URS 2008, "Contamination Management Plan, Western Precinct Development Phase" dated 7 July 2008, ref: 4321 7287, as recommended in the site audit statement issued for the site.

As such, the site is considered suitable for its intended use, subject to conditions.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

An assessment has been undertaken of the application against relevant criteria with Sydney Regional Environmental Plan No. 20—Hawkesbury/Nepean River (No. 2—1997) and the application is satisfactory subject to recommended conditions of consent.

Sydney Regional Environmental Plan No.30 - St Marys

An assessment has been undertaken of the application against relevant criteria within Sydney Regional Environmental Plan No. 30—St Marys (SREP 30) and the findings of the assessment are outlined below.

Permissibility

The subject site is zoned Urban pursuant to Sydney Regional Environmental Plan (SREP) No. 30 - St Marys. Subdivision is permissible under Clause 45.

Zone Objectives

The proposed subdivision will facilitate development that is consistent with the intended use of the Urban zone.

Performance Objectives

Only minor stormwater drainage works are proposed under the subject application. No tree removal is required and the development is not considered to impact on the performance objectives outlined in SREP No. 30 - St Marys.

Development Controls

Clause 44 - Consultation with National Parks and Wildlife Service

In accordance with this clause the application was referred to NPWS on 16 August 2018. A response, dated 30/10/2018, was received requesting that Council consider the *Guidelines for Development adjoining Office of Environment and Heritage Lands* in their assessment. Conditions of consent will ensure that the issues raised in this guideline document are adequately managed.

Section 79C(1)(a)(iii) The provisions of any development control plan

Western Precinct

Provision	Compliance
Western Precinct Plan	Complies

Section 79C(1)(a)(iiia) The provisions of any planning agreement

Penrith City Council, St Marys Land Limited and Lend Lease Development entered into a Planning Agreement in May 2009. The St Marys Penrith Planning Agreement has made provisions for open space, transport, human services and infrastructure works for the Western and Central Precincts of the St Marys Development Site. The subject site is within the site know as "VC Sites" (made up of VC10, VC2, VC3) which has a total dwelling count of 400 dwellings. The subject subdivision is under this limit and as such, no further Section 7.11 contributions are payable.

Section 79C(1)(b)The likely impacts of the development

Context and Setting

The surrounding area is characterised by a mix of residential and commercial uses. The proposed subdivision will facilitate the future development of proposed lot 1 for seniors housing and proposed lot 2 for an aged care facility. The layout and dimensions of the proposed lots will allow them to be redeveloped for these proposed future uses.

Bushfire Impacts

The subject site is identified as bushfire prone land. As such the application was accompanied by a Bushfire Assessment prepared by Peterson Bushfire and dated 22 May 2018. This report details that two asset protection zones (APZs) are required, both of which are contained within the development lots and do not impact on the surrounding regional park.

The application was referred to the NSW Rural Fire Service (RFS), and a conditional bushfire safety authority was issued. Conditions recommended by the RFS have been applied in the conditions of consent.

Environmental Impacts

The development includes minor drainage works to service proposed lot 2. The proposal will not result in adverse flora and fauna impacts given the required drainage works are clear of any vegetation. Conditions of consent will ensure that other potential environmental impacts are adequately managed.

Section 79C(1)(c)The suitability of the site for the development

The site is suitable for the following reasons:

- The proposed development is permissible with consent under SREP No. 30.
- The site is able to drain to Council's satisfaction.

Section 79C(1)(d) Any Submissions

Community Consultation

In accordance with Clause 4.4 of Appendix F4 of Penrith Development Control Plan 2014, the proposed development was notified to nearby and adjoining residents.

Council notified thirteen (13) residences in the area and the exhibition period was between 17 August and 17 September 2018. Council has received no submissions in response.

The application was advertised in a local paper on 16 August 2018.

Referrals

The application was referred to the following stakeholders and their comments have formed part of the assessment:

Referral Body	Comments Received
Development Engineer	No objections - subject to conditions

Section 79C(1)(e)The public interest

The proposed development will not generate any significant issues of public interest.

Conclusion

In assessing this application against the relevant environmental planning policies, being Sydney Regional Environmental Plan No. 30 - St Marys & Western Precinct Plan and Development Control Strategy, the proposal satisfies the aims, objectives and provisions of these policies. The site is suitable for the proposed development, the proposal is in the public interest, and there is unlikely to be negative impacts arising from the proposed development. Therefore, the application is worthy of support, subject to recommended conditions.

Recommendation

1. That DA18/0714 for Torrens Title Subdivision x 3 lots and ancillary drainage works at Lots 3990 & 3991, DP 1190132, be approved subject to the following conditions.

CONDITIONS

General

1 [A001](#)

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

Drawing Title	Drawing No	Prepared By	Dated
Subdivision Plan	7202 (Sheet 1) (Rev D)	Craig Turner	-
Civil Plans	110487/SK17 (Rev A)	J. Wyndham Prince	1/11/2018

2 [A005 - APPROVED BODYS CONSENT \(FOR INTEGRATED DAS\)](#)

All requirements of the NSW Rural Fire Service's General Terms of Approval, dated 8 October 2018, shall be satisfied prior to the issue of a Construction Certificate and/or any Subdivision Certificate, as relevant.

3 [A046 - Obtain Construction Certificate before commencement of works](#)

A **Construction Certificate** shall be obtained prior to commencement of any works.

4 [A Special \(BLANK\)](#)

The development shall be carried out in accordance with the General Terms of Approval issued by the Natural Resources Access Regulator, Reference IDAS1109326, dated 21 November 2018.

Environmental Matters

5 [D005 – No filling without prior approval \(may need to add D006\)](#)

No fill material is to be imported to the site without the prior approval of Penrith City Council in accordance with Sydney Regional Environmental Plan No.20 (Hawkesbury- Nepean River) (No.2-1997). No recycling of material for use as fill material shall be carried out on the site without the prior approval of Council.

6 [D009 - Covering of waste storage area](#)

All waste materials stored onsite 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 the areas are to be fully enclosed when the site is unattended.

7 [D010 – Appropriate disposal of excavated or other waste](#)

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.

8 [D Special \(BLANK\)](#)

The development shall be carried out in accordance with the procedures set out in the Contamination Management Plan, Western Precinct Development Plan dated 7 July 2008, ref: 4321 7287 as recommended in the site audit statement issued for the site.

9 [D Special \(BLANK\)](#)

Dust suppression techniques are to be employed during works to reduce any potential nuisances to surrounding properties.

10 [D Special \(BLANK\)](#)

Mud and soil from vehicular movements to and from the site must not be deposited on the road.

Utility Services

11 **G001 - Installation of services and Service Clearances (subdivision)**

All services (water, sewer, electricity, telephone and gas) are to be installed within the proposed public roads before final inspection of the engineering works.

Prior to the release of the linen plan, the following service authority clearances shall be obtained:

- a Section 73 Compliance Certificate under the Sydney Water Act 1994 shall be obtained from Sydney Water. This is required prior to the issue of the Subdivision Certificate and
- a letter from Integral Energy stating that satisfactory arrangements have been made for electricity supply to all proposed allotments in the subdivision, including any necessary easements; and
- a letter from an approved telecommunications service provider that satisfactory arrangements have been made for underground telephone services to all proposed allotments in the subdivision, including any necessary easements.

These clearances are to be submitted to the Principal Certifying Authority.

Engineering

12 **K101 - Works at no cost to Council**

All roadworks, stormwater drainage works, associated civil works and dedications, required to effect the consented development shall be undertaken at no cost to Penrith City Council.

13 **K206 - Construction Certificate for Subdivision Works**

A Construction Certificate is to be approved by the Certifying Authority for the provision of engineering works (road, drainage, earthworks, subdivision works).

A Construction Certificate shall be issued for any subdivision works.

Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that engineering plans are consistent with the stamped approved concept plan/s prepared by (J Wyndham Prince, reference number 110487/SK17, revision A, dated 01/11/2018, 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
- Storm water 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 Construction 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 (02) 4732 7777 or visit Penrith City Council's website for more information.

14 **K502 - Completion of subdivision works**

Prior to the issue of a Subdivision Certificate, the Principal Certifying Authority 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.

15 [K Special Condition BLANK](#)

The 88B Instrument is to include a sunset clause that will extinguish the proposed Easement for Services (E) and Right of Carriageway (F) over Lot 3 upon the future construction and dedication of public road over that portion of Lot 3.

Landscaping

16 [L009 - Tree Preservation Order \(subdivision\)](#)

No trees are to be removed from within the subdivision without the prior consent of Penrith City Council. Any trees to be removed as part of the engineering work are to be shown on engineering plans submitted for Council's consideration and subsequent approval.

Subdivision

17 [M001 - Prior to subdivision work \(Applies to subdivision except strata\)](#)

Work on the subdivision is not to commence until:

- a Construction Certificate has been issued,
- a Principal Certifying Authority 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.

Penrith City Council is to be notified 48 hours prior to commencement of engineering works or clearing associated with the subdivision.

18 [M008 - Linen Plan](#)

Submission of the original Linen Plan and two (2) copies. All drainage easements, rights of way, restrictions and covenants are to be included on the linen plan.

All dedications of roads/drainage 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.

19 [M014 - Surveyors certificate](#)

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.

Certification

20 [Q008 - Subdivision Certificate](#)

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.