

# PENRITH CITY COUNCIL

## MAJOR ASSESSMENT REPORT

<b>Application number:</b>	DA19/0381
<b>Proposed development:</b>	Demolition of Industrial Shed
<b>Property address:</b>	196 Christie Street, ST MARYS NSW 2760
<b>Property description:</b>	Lot 196 DP 31912
<b>Date received:</b>	6 June 2019
<b>Assessing officer</b>	Surreti Bajwa
<b>Zoning:</b>	IN1 General Industrial - LEP 2010 SP2 Infrastructure - Railway - LEP 2010
<b>Class of building:</b>	N/A
<b>Recommendations:</b>	Approve

### Executive Summary

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Council is in receipt of a Development Application for the demolition of a dis-used industrial rail shed at 196 Christie Street St Marys. The site is zoned IN1 General Industrial under the provisions of the Penrith Local Environmental Plan 2010 (LEP 2010). The proposal is for demolition only and per Section 2.7 of the LEP, the demolition of a building may be carried out with development consent.

In accordance with the Notification and Advertising Clause 4.4. of Appendix F4 of the Penrith LEP 210, the proposal did not require exhibition given the zoning and the location of the demolition works.

An assessment under Section 4.15 of the Environmental Planning and Assessment Act, 1979 has been undertaken and the application has demonstrated that the proposal is compliant with the LEP and zone objectives and the relevant provisions of the Penrith Development Control Plan 2010. Therefore, the application has demonstrated that the proposal is recommended for approval subject to conditions.

Note: A Hazardous Building Materials(HBM) Register accompanied the application and it was noted that the address on the report incorrectly refers to the site as 2 Forrester Road, St Marys. Notwithstanding this, the report correctly identified the specific structure to be demolished as identified through the description and photographs and is therefore considered acceptable.

## Site & Surrounds

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The subject site is transversed by Christie Street, with a larger portion of the land located to the south of the street. Directly to the south of the site is the State Heritage listed St Marys Station and the Main Western railway line.

There is a disused metal shed and associated dumping area on the site. The shed (proposed for demolition) transverses a now disused railway line (tributary of the Main Western railway line) that was used for the import of material excavated from the Northside Storage Tunnel Project. The disused railway tracks continue for approximately 3/4 of the site in a north-south direction, with the shed located towards the southern portion of the site. The shed is located directly adjacent to a pond which is fenced off. South Creek runs parallel to the site for its entirety and a tributary creek (Little Creek) transverses the approximate middle of the site. The site is flood affected and parts of the site are affected by overland flow paths. The site is also identified as bushfire prone land (partly) according to Council records.

### Easements

The site is burdened with the following easements:

1. A number of transmission easements (including along the southern part of the site and the other in the middle of the site.
2. Right of carriageway along the southern boundary and along the portion of the site transversed by Christie Street.

## Proposal

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The specific elements of the proposal include:

- The demolition of the disused shed; and
  - The removal of the footings and backfill of the excavated area.
- The metal shed has dimensions of approximately 13m width x 11m depth and 10m height.

## Plans that apply

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- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy No 55—Remediation of Land
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

## Planning Assessment

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### • Section 4.15 - Evaluation

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

### **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) requires Council to consider whether the site is suitable in its current state or following remediation works for the purpose of which development consent is being sought. The site is not located in an area of investigation and is not identified as contaminated per Council's records. As the site has been identified as being used for dumping of material and the application was referred to Council's Environmental Health officer for comment. who provided no objection to the proposal subject to conditions.

The proposal is only for the demolition of the shed and by virtue no remediation works are required.

Notwithstanding the above, in this instance if works cause the generation of odours or uncovering of unexpected contaminants, works are to immediately cease, and Council is to be notified.

Note: Council may also request that a NSW EPA accredited site auditor is involved to assist with the assessment of the contaminated land situation and review any new contamination information. The applicant must also adhere to any additional conditions which may be imposed by the accredited site auditor.

## 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.

### Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 1.2 Aims of the plan	Complies

### Section 79C(1)(a)(ii) The provisions of any draft environmental planning instrument

There are no draft Environmental Planning Instruments that apply to the proposal.

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

#### Development Control Plan 2014

Provision	Compliance
D4.1. Key Precincts	Complies
D4.2. Building Height	N/A
D4.3. Building Setbacks and Landscape	N/A
D4.4. Building Design	N/A
D4.5. Storage of Materials and Chemicals	Complies
D4.6. Accessing and Servicing the Site	N/A
D4.7. Fencing	N/A
D4.8 Lighting	N/A

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

There are no planning agreements applying to this application.

### Section 79C(1)(a)(iv) The provisions of the regulations

The regulations do not present any further restrictions or requirements for the proposed development on the subject site.

Whilst the shed is in proximity to a water body (being South creek), the distance is in excess of 40m and therefore does not require Integrated Development referral.

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

### **Environmental impacts**

The proposed development involves only the demolition of structures, accordingly a standard condition of consent will be imposed for the works to be conducted in accordance with the NSW Environment Protection Authority noise control guidelines.

To ensure that demolition works do not result in significant dust or air pollution, appropriate conditions of consent will be recommended for appropriate dust suppression techniques to be employed.

The application was accompanied by a Hazardous Building Materials (HBM) assessment of the shed and lead based paint has been identified within the structure. Council's Environmental Health Officer has recommended specific conditions to ensure waste materials are disposed in a responsible manner to the appropriate waste facilities.

The site is affected by overland flows and is in proximity to South Creek. To ensure that the proposed demolition does not detrimentally affect nearby water bodies, appropriate conditions of consent will be imposed to ensure that adequate erosion and sedimentation measures are undertaken in accordance with the approved plans. This will minimise erosion of soil from the site and, accordingly, sedimentation of drainage systems and waterways.

### **Land Contamination (future):**

To minimise the potential for future contamination, Council's Environmental Health Officer has imposed conditions of consent requiring the applicant to seek Council approval prior to the importation of fill material to the site. The request for approval should be accompanied by a Validation Certificate providing accurate details of the type, origin and volume of fill in addition to other relevant details.

### **Social/economic impacts**

Within the SEE the applicant has stated that in spite of fencing around the site, there have been incidents of unauthorised persons accessing the shed. The shed is also heavily graffitied. Taking this into consideration, the demolition of the shed will minimise the safety risks associated with the structure and may also minimise unlawful entry and intentional damage on the site.

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

The subject site is considered suitable for the proposed development. It is not subject to any major site constraints or environmental hazards.

## **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 did not have to be notified to nearby and adjoining residents.

### **Referrals**

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

<b>Referral Body</b>	<b>Comments Received</b>
Environmental - Environmental management	No objections - subject to conditions
Environmental - Public Health	No objections

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

The public interest is served through the detailed assessment of this development application under the relevant local planning controls and legislation. The proposed development is not considered to be contrary to the public interest subject to conditions of consent. Additionally, the demolition of the shed will result in the removal of a structure which may result in safety hazard for the unauthorised persons entering the site in addition to being a target for graffiti and intentional damage.

### **Conclusion**

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The site is suitable for the proposed demolition, the proposal is in the public interest, and there is unlikely to be negative impacts arising from the proposed development subject to the recommended conditions. Therefore, the application is considered worthy of support.

### **Recommendation**

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That DA19/0381 for the demolition of a disused railways shed at 196 Christie Street be approved subject to the attached conditions (development Assessment Report Part B).

# CONDITIONS

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## General

### 1 [A001 - Approved plans table](#)

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	Filename	Revision	Date
Demolition Site Plan	BG&E	B18028-DRG-C-1600.dwg	B	28/02/19
Existing features and demolition plan	BG&E	B18028-DRG-C-1605.dwg	C	20/03/19
Erosion and sedimentation control plan	BG&E	B18028-DRG-C-1610.dwg	C	20/03/19

- Hazardous Building Materials (HBM) Register, prepared by Douglas Partners, Project 94525.01, dated February 2019.

## Demolition

### 2 [B002 - AS FOR DEMOLITION AND DISPOSAL TO APPROVED LANDFILL SITE](#)

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**.

### 3 [B003 - ASBESTOS](#)

**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 WorkCover Asbestos Licence.

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

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

### 4 [B004 - Dust](#)

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

### 5 [B005 - Mud/Soil](#)

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

### 6 [B006 - Hours of work](#)

Demolition works will 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.

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

## Environmental Matters

7 **D001 - Implement approved sediment& erosion control measures**

Erosion and sediment control measures shall be installed **prior to the commencement of demolition works**. 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.

(Note: To obtain a copy of the publication, you should contact Landcom on (02) 98418600).

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.

8 **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.

9 **D006 - No filling without prior approval (Use always, except for bulk earthworks/ major fill operations)**

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 Contaminated Land Development Control Plan) with consideration of all relevant guidelines (e.g. EPA, ANZECC, NH&MRC), standards, planning instruments and legislation,
- clearly indicate the legal property description of the fill material source site,
- 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 Contaminated Land Development Control Plan 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.

10 **D009 - Covering of waste storage area**

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.

11 **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.

12 **D026 - Liquid wastes**

Only clean and unpolluted water is to be discharged into Penrith City Council's stormwater drainage system. Liquid wastes suitable for discharge to the mains sewer are to be discharged in accordance with Sydney Water requirements.

If mains sewer is not available or if Sydney Water will not allow disposal to the sewer then a licensed waste contractor is to remove the liquid waste from the premises to an appropriate waste facility.

The waste contractor and waste facility are to hold the relevant licenses issued by the NSW Environment Protection Authority.

13 **D Special BLANK**

All demolition works are to be conducted in accordance with the Douglas Partners Hazardous Materials (HBM) Register (dated 22 February 2019, Project Number: 94525.01).

Within thirty (30) days of completion of the demolition works, a copy of all clearance certificates issued in accordance with the Douglas Partners Hazardous Materials (HBM) Register (dated 22 February 2019, Project Number: 94525.01) shall be submitted to Penrith City Council.