

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA14/0151.01
Proposed development:	Section 96 Modification to Enabled Staged Subdivision Certificate Release for an Approved Subdivision into 25 Super Lots and Construction of a Car Parking Area

Property address:

1340 - 1772 Castlereagh Road, CASTLEREAGH NSW 2749
297 - 305 Old Castlereagh Road, CASTLEREAGH NSW 2749
1439 A Old Castlereagh Road, CASTLEREAGH NSW 2749
89 - 151 Old Castlereagh Road, CASTLEREAGH NSW 2749
63 Castlereagh Road, CASTLEREAGH NSW 2749
1515 - 1583 Castlereagh Road, CASTLEREAGH NSW 2749
1585 - 1673 Castlereagh Road, CASTLEREAGH NSW 2749
10 Castlereagh Road, CASTLEREAGH NSW 2749
68 Castlereagh Road, CASTLEREAGH NSW 2749
82 McCarthys Lane, CASTLEREAGH NSW 2749
89 - 151 Old Castlereagh Road, CASTLEREAGH NSW 2749
153 - 233 Old Castlereagh Road, CASTLEREAGH NSW 2749
314 - 316 Old Castlereagh Road, CASTLEREAGH NSW 2749
312 Old Castlereagh Road, CASTLEREAGH NSW 2749
Old Castlereagh Road, CASTLEREAGH NSW 2749
1 - 2 Old Castlereagh Road, CASTLEREAGH NSW 2749
1439 A Old Castlereagh Road, CASTLEREAGH NSW 2749
14 - 278 Old Castlereagh Road, PENRITH NSW 2750
1643 - 1655 Closed Road Off Castlereagh Road, CASTLEREAGH
NSW 2749
1439 a Closed Road Off Castlereagh Road, CASTLEREAGH NSW
2749
307 - 321 Cranebrook Road, CRANEBROOK NSW 2749
1230 - 1338 Castlereagh Road, CASTLEREAGH NSW 2749
461 Castlereagh Road, CASTLEREAGH NSW 2749
1185 - 1343 Castlereagh Road, CASTLEREAGH NSW 2749
1676 Castlereagh Road, CASTLEREAGH NSW 2749
Farrells Lane, CASTLEREAGH NSW 2749
36 Farrells Lane, CASTLEREAGH NSW 2749
485 Cranebrook Road, CASTLEREAGH NSW 2749
167 - 233 a McCarthys Lane, CASTLEREAGH NSW 2749
0 McCarthys Lane, CASTLEREAGH NSW 2749
32 McCarthys Lane, CASTLEREAGH NSW 2749
Wrights Lane, CASTLEREAGH NSW 2749
108 - 110 Wrights Lane, CASTLEREAGH NSW 2749
112 Wrights Lane, CASTLEREAGH NSW 2749
47 - 65 Old Castlereagh Road, CASTLEREAGH NSW 2749
7 - 37 Old Castlereagh Road, CASTLEREAGH NSW 2749
39 - 45 Old Castlereagh Road, CASTLEREAGH NSW 2749
Old Castlereagh Road, CASTLEREAGH NSW 2749
Old Castlereagh Road, PENRITH NSW 2750
1439 a Closed Road Off Castlereagh Road, CASTLEREAGH NSW
2749
1275 - 1343 Closed Road Off Castlereagh Road, CASTLEREAGH
NSW 2749
1531 Closed Road Off Castlereagh Road, CASTLEREAGH NSW
2749
1404 a Closed Road Off Castlereagh Road, CASTLEREAGH NSW
2749

Property description:

Lot 1 DP 120891
Lot 13 DP 2223
Lot 1 DP 200839
Lot 2 DP 200839
Lot 1 DP 219895
Lot 3 DP 219895
Lot 1 DP 229462
Lot 34 DP 241197
Lot 3 DP 235324
Lot A DP 374807

Lot B DP 374807
Lot A DP 394967
Lot X DP 421674
Lot Y DP 421674
Lot 1 DP 47720
Lot 1 DP 501273
Lot 1 DP 519892
Lot 21 DP 530256
Lot 23 DP 530256
Lot 44 DP 545813
Lot 45 DP 545813
Lot 42 DP 546220
Lot 111 DP 589818
Lot 104 DP 599725
Lot 1 DP 60859
Lot 300 DP 752021
Lot 302 DP 752021
Lot 304 DP 752021
Lot 310 DP 752021
Lot 321 DP 752021
Lot 325 DP 752021
Lot 1 DP 87060
Lot 2 DP 87060
Lot 1 DP 436198
Lot 2 DP 236125
Lot 4 DP 2223
Lot 1 DP 2223
Lot 2 DP 348979
Lot 305 DP 752021
Lot 306 DP 752021
Lot 307 DP 752021
Lot 337 DP 752021
Lot 338 DP 752021
Lot 43 DP 752021
Lot 1 DP 63308
Lot 1 DP 120872
Lot 1 DP 73955
Lot 62 DP 581860
Lot B DP 394967
Lot 309 DP 752021
Lot 308 DP 752021
Lot 1 DP 236125
Lot 1 DP 116082
Lot 2 DP 116082
Lot 3 DP 116082
Lot 303 DP 752021
Lot 1 DP 128036
Lot 2 DP 128036
Lot 56 DP 78686
Lot 481 DP 849952
Lot 1 DP 882358
Lot 57 DP 668807
Lot 1 DP 882354
Lot 2 DP 882361
Lot 2 DP 882360
Lot 2 DP 1013504
Lot 3 DP 1013504
Lot 4 DP 1013504
Lot 5 DP 1013504
Lot 6 DP 1013504

	Lot 7 DP 1013504 Lot 8 DP 1013504 Lot 9 DP 1013504 Lot 16 DP 1013504 Lot 17 DP 1013504 Lot 18 DP 1013504 Lot 19 DP 1013504 Lot 101 DP 1043500 Lot 2 DP 1042570 Lot 14 DP 1013504 Lot 15 DP 1013504 Lot 102 DP 1043503 Lot 68 DP 1111742 Lot 421 DP 1130185 Lot 44 DP 1130206 Lot 460 DP 1130241 Lot 461 DP 1130241 Lot 540 DP 1131982 Lot 541 DP 1131982 Lot 82 DP 1129226 Lot 6 DP 1148035 Lot 11 DP 1188657 Lot 12 DP 1188657 Lot 105 DP 1143931
Date received:	9 December 2014
Assessing officer	Gavin Cherry
Zoning:	RURAL 1(A2) (IDO 93) RURAL (A2) & SPECIAL USES 5(B) ROADS (IDO 93) IDO 13 SPECIAL USES B (ROADS) (IDO 93) ZONE NO.5(A) SPEC USES (NOTATION) (LEP 1998 URB L) ZONE NO.5(C)ST RD & ST RD/W LEP1998 (LAKES ENV) ZONE NO 2(B) RES (LOW DENS) LEP 1998 URB L SEE MEMO(S) AND/OR SEPPS CODE FOR ZONING DETAILS W1 Natural Waterways - LEP 2010
Class of building:	N/A
Recommendations:	Approve

Executive Summary

The approved subdivision was to be carried out as outlined below:-

1. Stage 1 is for consolidation and will create 23 super lots primarily seeks to excise water bodies from the remaining land. Stage that reflect the Penrith Lake SEPP, the Structure Plan and lands to be dedicated under the Deed of Agreement between the State Government and the applicant; and
2. Stage 2 is seeking conceptual approval to subdivide proposed Lot 4 to a minimum of 2 hectares per lot. The Stage 2 component of the original application was not approved and as such a partial consent was issued only for stage 1 of the proposal.

The proposed modification application seeks to enable the release of staged subdivision certificates in order to incrementally create and register allotments in strict progression. The staging is driven by the need to separate allotments severed by the construction of new Castlereagh Road, accurately ascertain correct coordinates for the creation of lakes to be dedicated to the state government and address registration requirements of the Land and Property Information Department (State Government). Current regulations do not permit the registration lots linked by vicinulums across roads and the LPI has advised the applicant that a staged sequence of registration is the best way to manage the transfer of survey coordinates for each survey plan. The total subdivision and registration will therefore extend across 13 stages as indicated within the SEE and associated Annexures.

This original application was advertised, exhibited and notified from 3 March to 2 April 2014. Council received three (3) submissions and two (2) petitions. Key issues raised in these submissions and petition are outlined below:-

- (a) The proposal should not be finalised prior to the completion and full consideration of the Master Plan currently being prepared by the Office of Penrith Lakes
- (b) The proposal would have a significant impact on the flow of air through the Sydney International Regatta Centre which would be detrimental to the fairness of any racing conducted on the competition lake
- (c) Creation of easements over the access road and services to Nepean Park
- (d) Security of Nepean Park due to opening up of the private access road

These issues were addressed below in the preceeding assessment report and the proposed modification to enabled staged subdivision certificate release does alter the development from that approved and does not necessitate renotification for this fact,

The modification application has been assessed with respect to Clause 96(1) and 79(c) of the Environmental Planning and Assessment Act, 1979 (EP&A Act). Having regard to the relevant statutory provisions, it is recommended that this application be determined by granting consent.

Site & Surrounds

The proposed subdivision is located on the floodplain of the Nepean River bounded by Casltreagh Road to the east and the Nepean River to the south and west. Developments in the area consist of a combination of rural land uses, villages and residential developments. The site has a total area of approximately 1935 hectares excluding 16 lots which had been rehabilitated, consolidated and returned to Government ownership. The site is currently vacant.

Proposal

The approved proposal was for the following:

1. Consolidation of 165 lots and reconfiguration of allotment boundaries creating 23 super lots. The proposed subdivision reflects the alignment and buffer area surrounding the water bodies and in turn facilitate dedication of land to Government ownership.
2. Construction of a carpark on vacant land adjacent to MaCarthy's Cemetery. The carpark will provide approximately 200m² of sealed area for five (5) standard parking spaces and one (1) accessible parking space. The spaces are proposed for the use of the cemetery.

The proposed modification seeks to stage the subdivision certificate release and create two additional lots as follows:-

- a) Stage 0 was undertaken in March 2001 and created the Regatta Centre
- b) Stage 1 seeks to create approved lots 14, 15 and 16 and separates the lots on the eastern and western sides of new Castlereagh Road (with the residue lots to be dedicated as part of the 'Eastern Lake')
- c) Stage 2 seeks to create lots 17, 18 and 25 and relies on finalised coordinates stemming from Stage 1 registration to the acquisition / dedication of the eastern lake
- c) Stage 3 seeks to create approved lot 13 and separates the lots on the eastern and western sides of new Castlereagh Road (with the residue lots to be consolidated into approved Lot 4
- d) Stage 4 seeks to create lots 1,2,3 and 9 for registration (replacing lots 12,22,23 and 24 in the existing consent numbering). Lots 4,5 and 6 become redundant during the eastern lake dedication / acquisition.
- e) Stage 5 is the acquisition of the eastern lake and 'pioneer fresh' as created by the preceding staged subdivision and registrations.
- f) Stage 6 is dependant on the registration of Stage 4 and will form the basis for the future dedication of the Wildlife Lake and Main Lake B
- g) Stage 7 seeks to consolidate lots 6,7,10 and 20 to form the Wildlife Lake and is dependant on the registration of Stage 4 lots and DP1203641. Prior to staged registration is required to confirm finished coordinates for the Wildlife Lake
- h) Stage 8 seeks to complete the staged subdivision and registration to form the scheme perimeter plan which completes the definition of the scheme boundary.
- i) Stage 9 will result in dedication of the Main Lake B (subject to continued discussion between the applicant and state government)
- j) Stage 10 will result in the dedication of the Main Lake A (subject to continued discussion between the applicant and state government)
- k) Stage 11 will result in the dedication of the Quarantine Lake (subject to continued discussion between the applicant and state government)
- l) Stage 12 will result in the dedication of the Southern Wetland and Castlereagh Subdivision Plan of Acquisition ((subject to continued discussion between the applicant and state government)
- m) Stage 13 will result in the registration of Lot 4 intended for future urban development.

The resulting amended subdivision plan also makes the following changes to the approved plan of subdivision as follows:-

- i. Approved Lot 18 (duplicated lot numbers) becomes Lot 25 at 1.219ha (renders it Lot 3 in DP1181667 - Stage 2 works and is created due to road severance)
- ii. Approved Lot 22 (duplicated lot numbers) becomes Lot 24 at 0.5ha (renders it Lot 9 in DP1181666 - Stage 4 Works and is created due to road severance)

The resulting Lot 18 and Lot 22 site areas as approved are subsequently reduced due to the separation out of Lot 25 and Lot 24 from Lot 18 and Lot 22 (as originally approved) The proposed amended plan of subdivision therefore amends the development from the creation of 23 super lots to the creation of 25 super lots.

Plans that apply

- Penrith Local Environmental Plan No.201 (Rural Lands)
- Penrith Local Environmental Plan 1991 (Environmental Heritage Conservation)
- Penrith Local Environmental Plan 1998 (Urban Land)
- Penrith Interim Development Order No.13
- Penrith Interim Development Order No.93
- Development Control Plan 2006
- State Environmental Planning Policy (Penrith Lakes Scheme) 1989

Planning Assessment

• **Section 79C - Evaluation**

The development has been assessed in accordance with the matters for consideration under 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 96(1A) - Modifications involving minimal environmental impact**

The development has been assessed in accordance with the matters for consideration under Section 96(1A) of the Environmental Planning and Assessment Act 1979, and having regard to those matters, the proposal is considered to be satisfactory.

The proposed modification is substantially the same development as approved as the scope of amendments is primarily limited to the staging of the subdivision for progressive subdivision certificate release. The proposed modification does create two additional allotments however the lots as severed by roads were in the same location and configuration but were linked by vicinimum. This approach is not supported under current regulations and the lots as severed must be afforded individual lot numbers and titles. The proposed amended plan of subdivision reflects this registration requirement.

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

State Environmental Planning Policy (Penrith Lakes Scheme) 1989

As assessment has been undertaken of the application against relevant criteria with State Environmental Planning Policy (Penrith Lakes Scheme) 1989 and the application is satisfactory subject to recommended conditions of consent.

Part 2 of the SEPP contains development controls that are relevant to the assessment of this Development Application and they are summarised below:-

1. Clause 7 states that development must be authorised by or under the SEPP.
2. Clause 8 states that the consent authority shall grant consent to development that fully and satisfactorily implements the Penrith Lakes Scheme and is in accordance with the structure plan. It is further stated that the applicant shall submitted a statement of the environmental effects containing the matters specified in clause 1 of Schedule 2 and addressing the matters specified in clause 2 of that Schedule.
3. Clause 8(4) outlines the matters that the consent authority shall consider in determining the development application including but not limited to:
 - the Penrith Lakes Scheme Regional Environmental Study
 - the recommendations of any technical working parties
 - the statement of environmental effects that accompanies the application
 - dedication of land to the Crown
 - flood control
 - any item of the environmental heritage listed in Schedule 3

- the provisions of sections 84, 85, 86, 87 (1) and 90 of the Act apply to and in respect of development for the purposes of implementing the Penrith Lakes Scheme

The applicant provided the following information in the original application demonstrating the aims and objectives of the SEPP can be achieved and the intent/requirements of Clauses 7 and 8 have been met:

- *The proposed subdivision layout supports the staged implementation of the Penrith Lakes Scheme by removing the existing extensive and cumbersome subdivision pattern and set a subdivision layout that reflects the future and likely developments of the Scheme*
- *The proposed staged development will contribute towards further implementation of the Penrith Lakes Scheme in accordance with Clauses 7 and 8(2) of the SEPP. Specifically the proposed Stage 1 subdivision will replicate the lake layout of the Structure Plan through the creation of proposed Lots 1, 2, 10, 11 and 18.*
- *Works have been carried out in accordance with the Structure Plan to create a substantial portion of the lake formations and developable land*
- *The new and re-aligned Castlereagh Road has been provided and accords with the Structure Plan*
- *Lots to the east of Castlereagh Road have been included to facilitate the orderly subdivision of the site as a single allotment*
- *Proposed Lots 5, 20 and 21 have been separated providing for the heritage items on the site and the allotment boundaries generally conform with the Structure Plan. Detailed assessment of any potential impacts on the heritage items will be provided in the form of a Heritage Impact Statement and will be submitted with future development applications.*
- *A Statement of Environmental Effects has been prepared in accordance with Clause 8(3). The SEE has addressed all matters in Schedule 2 and Clause 8(4).*

The proposed modification continues to satisfy the SEPP requirements with specific regard given to Clause (8) and Clause (9). Clause 9 permits development for any purpose where the development is not considered to 'adversely affect the implementation of the Penrith Lakes Scheme'. The proposed staged subdivision and registration is specifically designed to facilitate the scheme by way of facilitating lake dedication / acquisition to the state government.

Having regard specifically to Clause 9 of the SEPP, the over-arching SEPP permissibility enables the proposal to be considered and overrides the underlying LEP and IDO lot size provisions where an inconsistency is identified. In this instance, the lot fragmentation is existing as is the road severance. The registration of lots on the western side of new Castlereagh Road must be separate from lots east of new Castlereagh Road for intended lake dedication as part of the scheme. The resulting lots east of new Castlereagh Road cannot be further severed by roads and linked by vicinums as per LPI registration regulations. To that end, the SEPP provisions are considered to over-ride the lot size requirements within the IDO and LEP which would otherwise prevent the creation of undersized lots (Proposed Lots 24 and 25) which are now separated from Lots 18 and Lots 22 to facilitate compliant subdivision registration. In summary, the lots are existing and their separation is purely a result of road severance registration requirements and does not foreshadow a future use or development entitlement at this point in time. Due to the overriding provisions of the SEPP, it is also considered that while IDO and LEP development standards are applicable, a formal variation to the lot size requirement within both planning instruments is not relevant (such as a SEPP 1 - Objection).

Penrith Local Environmental Plan No.201 (Rural Lands)

Provision	Compliance
Clause 2 - Aims, objectives etc	Complies
Clause 9 - Permissibility	Complies
Clause 9 - Objectives of the zone	Complies
Clause 10 - Subdivision generally	Does not comply - See discussion
Clause 11 - Subdivision within Zones Nos 1 (a), 1 (b), 1 (c), 5 (d) and 7	Does not comply - See discussion

Clause 12 Erection of dwelling houses	N/A
Clause 13 Erection of dwelling-houses on land included in Schedule 2	N/A
Clause 14 Rural workers' dwellings within Zone No 1 (a) or 7	N/A
Clause 15 Rural/residential development within Zone No 1 (c)	N/A
Clause 16 Development within Zone 7 (Environment/Scenic Protection)	N/A
Clause 17 - Tree preservation	Complies
Clause 18 - Convenience and general stores	N/A
Clause 19 Development of land within Zones Nos 1 (a), 1 (b) and 1 (c) near designated roads	Complies
Clause 20 Flood liable land	Complies
Clause 21 Provision of services	N/A
Clause 23 Assessment of development in Zone No 6 (a)	N/A
Clause 24 Acquisition of land within Zone No 5 (b)	N/A
Clause 25 Acquisition and development of land reserved for roads	N/A
Clause 26 Acquisition and development of land within Zone No 5 (d)	N/A
Clause 27 Development of land within Zones Nos 5 (b) and 6 (a)	N/A
Clause 28 Development near the boundary of adjoining zones	N/A
Clause 29 Community use of school sites etc	N/A
Clause 30 Extractive industries	N/A
Clause 31 Airport noise	
Clause 32 Development of certain land off Horsley Road, Mt Vernon	N/A
Clause 32A Development of certain rural residential land at Mt Vernon	N/A
Clause 33 Waste disposal	N/A
Clause 33A Waste disposal on land near Sydney West Airport	N/A
Clause 34 Detached dual occupancy within Zones Nos 1 (b) and 1 (c)	N/A
Clause 35 Development of certain land at Badgerys Creek	N/A
Clause 36 Development of certain land at Mamre Road, Luddenham	N/A
Clause 37 Development of certain land adjacent to The Northern Road, Luddenham	N/A
Clause 38 Development of certain land at Erskine Park	N/A

Clause 39 Development of certain land at Berkshire Park	N/A
Clause 40 Development of certain land at North Cranebrook	N/A
Clause 41 Development of certain land at Llandilo	N/A
Clause 42 Development of certain land at Mamre Road, Kemps Creek	N/A
Clause 43 Development of certain land at Elizabeth Drive, Luddenham	N/A

LEP 201 applies to the development site (isolated to approved lot 22). This land parcel is zoned Rural (b) - Small Holdings and is provided within a minimum lot size of 2 hectares under the provisions of the LEP.

The separation of Lot 22 into Lot 22 and 24 has resulted in undersized lot being Lot 24 at 0.5 hectares. This is a result of registration requirements which prevent the registration of a lot severed by a road and linked by a vicinulum.

Under normal circumstances such a variation would require a SEPP 1 - Objection to the lot size development standard (requiring determination by Council under adopted delegations). However as outlined within the SEPP - Penrith Lakes Scheme 1989 assessment commentary in this report, the SEPP is considered to over-ride the LEP in the event of an inconsistency (Clause 4) and as Clause 9 of the SEPP permits any development which is not considered to 'adversely affect the implementation of the Penrith Lakes Scheme', and registration of staged lots unaffected by vicinulums is required to progress the scheme, the SEPP is considered to override the provisions of the LEP in this isolated instance. This provision then negates the need for any SEPP 1 Objections and further negates the need for Council determination. The application can then be determined under delegated authority.

While it is acknowledged that part of approved Lot 22 to the north (to be created as proposed Lot 24 falling inside the provisions of LEP 201) is not located within SEPP - Penrith Lakes Scheme map, the existing lot as approved partially falls within the SEPP map extent and as such the excision of Lot 22 from lot 24 as required for registration purposes, is considered to be covered by the SEPP provisions even though the created lot is not itself covered by the SEPP.

It is also noted that no development entitlement is proposed at this stage being retained as a residual lot and future land uses would be subject to separate applications.

Penrith Local Environmental Plan 1991 (Environmental Heritage Conservation)

Provision	Compliance
Clause 2 - Heritage aims and objectives	N/A
Clause 8 - Heritage items	Complies - See discussion
Clause 9 - Development in the vicinity of heritage items	Complies - See discussion
Clause 10 - Heritage conservation areas	N/A
Clause 11 - Heritage advertisements	N/A
Clause 12 - Conservation incentives relating to heritage items	N/A

Council's Heritage Advisor reviewed the proposal and stated that the Heritage Impact Statement needs to be developed further to address issues related to curtilage. Given the nature of Stage 1 of the proposal, it is considered that the proposal would not adversely impact on the curtilage of the heritage items within the Lakes and as such no further information is required.

Penrith Local Environmental Plan 1998 (Urban Land)

Provision	Compliance
Clause 7 - Aims and Objectives of the Plan	Complies
Clause 9 - Zone Objectives	Complies
Clause 9 - Zone Permissible	Complies
Clause 10 - Subdivision controls	Complies
Clause 10 - Subdivision objectives	Complies
Clause 10A - Subdivision Glenmore Park	N/A
Clause 11 - Controls for Dual Occupancy and Multi-unit Housing	N/A
Clause 11 - Objectives for Dual Occupancy and Multi-unit Housing	N/A
Clause 12 - Building Envelope	N/A
Clause 12 - Maximum External Wall Height	N/A
Clause 12 - Minimum Landscape	N/A
Clause 13 - Provisions for Environmental Performance	N/A
Clause 14 - Design Principles in development generally	N/A
Clause 15 and Schedule 3 - Development for additional purposes	N/A
Clause 16 - Activities Unaffected by this Plan	N/A
Clause 17 - Community Services and Infrastructure	N/A
Clause 18 - Temporary Use of Land	N/A
Clause 19 - Near boundary of Adjoining Zones	N/A
Clause 19A - Acquisition of Land	N/A
Clause 20 - Acquisition of Land reserved for roads	N/A
Clause 22 - Acquisition of Land within Zone 5(B), 6(B) or 7(A)	N/A
Clause 23 - Development of Land within Zone 5(B), 6(B)	N/A
Clause 24 - Acquisition of land within zone 6D by the Corporation	N/A
Clause 25 - Community use of educational establishments and tertiary institutions	N/A
Clause 26 - Additional matters for consideration for development in zones 6A, 6B or 6D	N/A
Clause 27 - Advertising of development applications for restaurants and kiosks in Zone No.6A, 6C or 6D	N/A
Clause 28 - Tree Preservation	N/A
Clause 29 - Prohibited access	N/A
Clause 30 - Development on contaminated land	Does not comply - See discussion
Clause 31 - Development for the purposes of advertisement	N/A

Clause 32 - Flood Liable Land	Does not comply - See discussion
Clause 33 - Development of certain land for medical centres	N/A
Clause 34 - Consent required for subdivisions	Complies
Clause 35 - Development of land at North Penrith	N/A
Clause 36 - Thornton Hall and land in the vicinity	N/A
Clause 37 - Land in the vicinity of Combewood	N/A
Clause 37A and Schedule 5 - Claremont Meadows Stage 2	N/A
Clause 38 - Development of the Werrington Mixed Use Area	N/A

A small portion of land to the eastern side of the site is zoned 2(b) Residential (Low Density) under the provisions of LEP 1998. The minimum lot size for subdivision in 2(b) zone is 550m². The proposal is compliant.

Penrith Interim Development Order No.13

Provision	Compliance
All Clauses	Complies - See discussion

While IDO 13 applies to the site. Clauses No. 4 and 5 states that Council shall not grant consent to any developments unless it is satisfied that satisfactory arrangements have been made for water and sewerage. Considering the nature and scale of the consolidation and construction of the carparking, it is considered that these clauses do not apply.

Penrith Interim Development Order No.93

Provision	Compliance
All Clauses	Does not comply - See discussion

Under IDO 93 the site is zoned 1(a2) Rural A2 and 5(b) Special Uses (Roads). Clause 5 of the IDO stipulates the minimum lot size for subdivision in 1(a) Rural A2 zone shall be 2 hectares. The IDO has not nominated any minimum lot size for 5(b) Special Uses (Roads) zone.

The separation of Lot 18 into Lot 18 and 25 has resulted in undersized lot being Lot 25 at 1.2 hectares. This is a result of registration requirements which prevent the registration of a lot severed by a road and linked by a vicinulum.

Under normal circumstances such a variation would require a SEPP 1 - Objection to the lot size development standard (requiring determination by Council under adopted delegations). However as outlined within the SEPP - Penrith Lakes Scheme 1989 assessment commentary in this report, the SEPP is considered to over-ride the IDO in the event of an inconsistency (Clause 4) and as Clause 9 of the SEPP permits any development which is not considered to 'adversely affect the implimentation of the Penrith Lakes Scheme', and registration of staged lots unaffected by vicinulums is required to progress the scheme, the SEPP is considered to override the provisions of the IDO in this isolated instance. This provision then negates the need for any SEPP 1 Objections and further negates the need for Council determination. The application can then be determined under delegated authority.

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

Under the exhibited draft Stage 2 of the Penrith Local Environmental Plan, the majority of the development site will be zoned RU1 Primary Production with the exception of a small portion of land adjoining Castlereagh Road which is proposed to be zoned SP2 Classified Road. However, Council has recently resolved to exclude the Penrith Lakes from the draft Stage 2 of the PLEP as per Council report dated 11 November 2013.

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

Development Control Plan 2006

Provision	Compliance
Chapter 2.1 - Contaminated land	Complies - see Appendix - Development Control Plan Compliance
Chapter 2.2 - Crime prevention through environmental design	N/A
Chapter 2.3 - Engineering works	Complies
Chapter 2.4 - Erosion and sediment control	Complies
Chapter 2.5 - Heritage management	Complies - see Appendix - Development Control Plan Compliance
Chapter 2.6 - Landscape	N/A
Chapter 2.7 - Notification and advertising	Complies
Chapter 2.8 - Significant trees and gardens	N/A
Chapter 2.9 - Waste planning	Complies
Chapter 2.10 - Flood liable land	Complies - see Appendix - Development Control Plan Compliance
Chapter 2.11 - Car parking	Complies
Chapter 2.12 - On-site sewage management	N/A
Chapter 2.13 - Tree preservation	N/A

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

PLDC entered into a Deed of Agreement with the NSW Government. The Deed outlines the process in relation to the use of the land for quarrying, standards for rehabilitation and other associated works related to the quarrying operations. The Deed has been varied once to facilitate construction of the Sydney International Regatta Centre. Stage 1 of the proposed consolidation and subdivision is consistent with the Deed.

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

Context and Setting

According to SEPP 1989, the main objective is to permit the implementation of the Penrith Lakes Scheme which clearly outlined in Schedule 1 of the SEPP. In addition, the SEPP also aims at identification and protection of heritage items and identification of land for urban purposes.

The Penrith Lake Scheme is to create a regional recreational lake system as a result

- (a) the staged optimum extraction of sand and gravel reserves,
- (b) the staged rehabilitation, reconstruction and landscaping of the land, and
- (c) the staged formation of a series of interconnected lakes,

and includes the identification of land for possible future urban purposes as a result of the work referred to in paragraphs (a) and (b).

It is considered that the proposed consolidation and subdivision creating 25 super lots (as amended) can be supported as the proposal has satisfied the aims of the SEPP and the requirements of the definition as the subdivision seeks to enable dedication of land for implementation of the Lakes system and management of the foreshore land.

Transport and Accessibility

The proposed amendment does not change acceptance of the proposal having regard to these key considerations.

Noise and Vibration

The proposed amendment does not change acceptance of the proposal having regard to these key considerations.

Natural Hazards

The proposed amendment does not change acceptance of the proposal having regard to these key considerations.

Heritage

The proposed amendment does not change acceptance of the proposal having regard to these key considerations.

Site Design

The proposed amendment does not change acceptance of the proposal having regard to these key considerations.

Social and Economic

The proposed amendment does not change acceptance of the proposal having regard to these key considerations.

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

The site is suitable for the proposed development for the following reasons:

- The proposed subdivision is permissible under the applicable environmental planning instruments.
- The proposed Stage 1 consolidation and subdivision is consistent with aims of SEPP 1989 specifically in relation to the implementation of the Penrith Lakes Scheme.
- The proposed Stage 1 consolidation and subdivision is unlikely to result in any adverse impact on flooding, contamination and flora and fauna.

Section 79C(1)(d) Any Submissions

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 is consistent with the objectives of the EP&A Act in so far as it promotes the co-ordinated and orderly, and economic use and development of the land. As a result Council may be satisfied that the development subject to conditions is consistent with the public interest.

Conclusion

The application is considered satisfactory having regard to:

1. The above assessment has demonstrated that the proposal has met the relevant provisions of the following legislations:
 - a. *Environmental Planning and Assessment Act 1979*
 - b. *State Environmental Planning Policy (Penrith Lakes Scheme) 1989*
 - d. *Interim Development Order No. 13*

The proposed departures from LEP 201 and IDO 93 are addressed / overridden by the provisions of the SEPP as outlined within the body of this report.

2. The proposed Stage 1 consolidation and subdivision creating 25 super lots (as now amended) is consistent with the desired future character, design and function as identified in SEPP 1989.
3. The site is suitable for the proposal and the development being in the public interest.
4. It is also noted that Condition No. 6 is a duplication of the requirements contained within Condition No. 9 and as such Condition No. 6 is recommended to be deleted.

Recommendation

1. That DA14/0151.01 for modification of an approved subdivision now creating 25 super lots, construction of a carparking area be granted under S96(1A) of the EP&A Act of the Environmental Planning and Assessment Act 1979.
2. That the proposed consolidation of 165 lots, subdivision of the consolidated lots creating 25 super lots and construction of a carparking area be approved subject to the attached modified conditions (Development Assessment Report Part B)

CONDITIONS

General

1 A001

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

Drawing Title	Plan No.	Prepared By	Date
Plan of Subdivision of Various Lots	Surveyor's Ref: 068-13	Benjamin Meyer	undated
McCarthy's Cemetery Proposed Carpark Design	PLDC-11728 Revision C	Penrith Lakes	04/02/2014
Staging Plan - Superlots	PLDC11873 Revision A	Penrith Lakes	13/11/2014

Note: Works approved as part of this consent must be completed prior to the release of the corresponding subdivision certificate as reflected within the approved Staging Plan.

As amended by way of Section 96 Modification Application DA14/0151.01, approved on 11 December 2014 under the provisions of Section 96(1A) of the Environmental Planning and Assessment Act, 1979.

2 A005 - APPROVED BODYS CONSENT (FOR INTEGRATED DAS)

A copy of the Bush Fire Safety Authority (Ref D14/0502 DA 1402279117 MA) dated 27 March 2014 issued by the NSW Rural Fire Service under Section 100B of the Rural Fires Act 1997 shall be submitted to the Principal Certifying Authority, before the Construction Certificate can be issued for the same development. A copy of the approval shall be submitted to Penrith City Council with the copy of the Construction Certificate, if Council is not the Principal Certifying Authority.

3 A011 - Engineering Works DCP

All civil engineering construction works shall be carried out substantially in accordance with Section 2.3 Engineering Works of the Penrith Development Control Plan 2006 and accompanying Guidelines for Engineering Works for Subdivisions and Developments Part 2-Construction.

4 A014 - LOT CONSOLIDATION

Written evidence that the request to consolidate the lots has been lodged with Land and Property Information division of the Department of Lands is to be submitted to the certifying authority before the Construction Certificate for the development can be issued by the certifier.

A copy of the registered plan of consolidation from Land and Property Information division of the Department of Lands is to be submitted to the Principal Certifying Authority (PCA) and Penrith City Council, if Council is not the PCA, prior to the issue of the Occupation Certificate for the development.

5 A019 - OCCUPATION CERTIFICATE (ALWAYS APPLY)

The development shall not be used or occupied until an Occupation Certificate has been issued.

6 A042 - ASSET PROTECTION ZONES IN BUSHFIRE AREAS

Condition No. 6 of the issued consent is deleted being a duplication of the requirements contained within Condition No. 9.

As amended by way of Section 96 Modification Application DA14/0151.01 approved on 11 December 2014 under the provisions of Section 96(1A) of the Environmental Planning and Assessment Act, 1979.

7 A044 - Compliance with NSW Rural Fire Service conditions of consent

The conditions imposed by the NSW Rural Fire Service in the Integrated Development consent and in the Bush Fire Safety Authority (Ref DA14/0502 DA 1402279117 MA) dated 27 March 2014 for the said development are to be completed prior to the issue of an Occupation Certificate or in the case of subdivision, a Subdivision Certificate.

8 A046 - Obtain Construction Certificate before commencement of works

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

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

The applicant shall comply at all times with the Bush Fire Safety Authority (Ref D14/0502 DA 14022791117 MA) issued by the NSW Rural Fire Service dated 27 March 2014 and the following condition:-

Asset Protection Zones

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following condition shall apply:

(a) At the issue of subdivision certificate, the land surrounding the proposed building envelopes as outlined on Pages 43 to 46 within Cityscape Planning + Projects Bushfire Hazard Assessment for Proposed Staged Subdivision of Penrith lakes Scheme DA No. 5 - Stage 1 dated February 2014, shall be maintained as an inner protection areas on proposed Lots 3, 13, 14 and 16 as per section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for Asset Protection Zones' until such time each Lot is further developed.

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

This development consent does not approve any fill, does not provide land set above the 1% AEP for urban purposes and does not approve the Stage 2 (Lot 4) concept subdivision plan.

Demolition

11 [B004 - Dust](#)

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

12 [B005 - Mud/Soil](#)

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

Environmental Matters

13 [D001 - Implement approved sediment& erosion control measures](#)

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.

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

The approved sediment and erosion control measures are to be installed **prior to and maintained throughout the construction phase of the development until driveway and on-site parking areas have been completed for the development**. 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.

14 [D002 Spraygrass](#)

All land that has been disturbed by earthworks is to be spray grassed or similarly treated to establish a grass cover.

15 [D003 - Fencing protection to part of site or adjoining property](#)

Before any works are commenced in the vicinity of proposed carparking area adequate fencing with star picket and wire fencing shall be installed to ensure that the adjoining McCarthy's Cemetery is not disturbed by the construction/demolition works or earthworks.

16 [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.

17 [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.

18 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.

Utility Services

19 G001 - Installation of services and Service Clearances (subdivision)

All services (water, sewer, electricity, telephone and gas), including the provision of service conduits and stub mains, 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.

Construction

20 H001 - Stamped plans and erection of site notice

Stamped plans, specifications, a copy of the development consent, the Construction Certificate and any other Certificates to be relied upon shall be available on site at all times during construction.

The following details are to be displayed in a maximum of 2 signs to be erected on the site:

- the name of the Principal Certifying Authority, their address and telephone number,
- the name of the person in charge of the work site and telephone number at which that person may be contacted during work hours,
- that unauthorised entry to the work site is prohibited,
- the designated waste storage area must be covered when the site is unattended, and
- all sediment and erosion control measures shall be fully maintained until completion of the construction phase.

Signage but no more than 2 signs stating the above details is to be erected:

- at the commencement of, and for the full length of the, construction works onsite, and
- in a prominent position on the work site and in a manner that can be easily read by pedestrian traffic.

All construction signage is to be removed when the Occupation Certificate has been issued for the development.

21 H002 - All forms of construction

Prior to the commencement of construction works:

(a) Toilet facilities at or in the vicinity of the work site shall be provided at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be:

- a standard flushing toilet connected to a public sewer, or
- if that is not practicable, an accredited sewage management facility approved by the council, or
- alternatively, any other sewage management facility approved by council.

(b) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with the appropriate professional standards. All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

(c) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:

- must preserve and protect the building from damage, and
- if necessary, must underpin and support the building in an approved manner, and
- must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished. The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land, (includes a public road and any other public place).

(d) If the work involved in the erection or demolition of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place:

- if necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place,
- the work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place, and
- any such hoarding, fence or awning is to be removed when the work has been completed.

22 H006 - Submission of and implement waste management plan

A completed waste management plan shall be submitted to Penrith City Council for consideration and approval. Council must approve the plan before a Construction Certificate can be issued for the approved development.

The waste management plan shall be prepared in accordance with the Waste Planning Development Control Plan (2004), and shall address all waste materials likely to result from the proposed development, with details of the estimated waste volumes, onsite storage and management, proposed re-use of materials, designated waste contractors, recycling outlet and / or landfill site.

The approved waste management plan must be implemented on-site and adhered to throughout all stages of the development including demolition, with supporting documentation / receipts retained in order to verify the recycling and disposal of materials in accordance with the approved plan.

23 H041 - Hours of work (other devt)

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 and 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

24 [K205 - Construction Certificate for Carpark Construction Works](#)

Prior to the issue of a Construction Certificate for the car park construction works adjacent to McCarthy's Cemetery, the Certifying Authority shall ensure that engineering plans are consistent with the stamped approved concept plan/s prepared by Penrith Lakes, drawing number PLDC-11728 , revision C, dated 4 Feb 2014 and that all works have been designed in accordance with conditions of this consent, Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments, Engineering Construction Specification for Civil Works, any Roads Act approval issued, Austroad Guidelines and best engineering practice.

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

- Stormwater management (quantity and quality)
- Private access driveways
- Sediment and erosion control measures
- Earthworks
- Landscaping and embellishment works

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

Note:

1. Contact Penrith City Council's **Engineering Services Department** on (02) 4732 7777 to ascertain applicable fees.

25 [K208 - Stormwater Discharge \(Minor Development\)](#)

Stormwater drainage from the proposed carpark site shall be discharged to the existing site drainage system. The proposed development and stormwater drainage system shall be designed to ensure no adverse impact on adjoining properties by the diversion, damming or concentration of stormwater flows.

The proposed method of stormwater discharge shall be detailed in the Construction Certificate issued by the Certifying Authority.

26 [K221 - Access, Car Parking and Manoeuvring – General](#)

Prior to the issue of a Construction Certificate, the Certifying Authority shall ensure that vehicular access, circulation, manoeuvring, pedestrian and parking areas associated with the subject development are in accordance with AS 2890.1, AS2890.2, AS2890.6 and Penrith City Council's Development Control Plan.

27 [K301 - Sediment & Erosion Control](#)

Prior to commencement of works, sediment and erosion control measures shall be installed in accordance with the approved Construction Certificate and to ensure compliance with the Protection of the Environment Operations Act 1997.

The erosion and sediment control measures shall remain in place and be maintained until all disturbed areas have been rehabilitated and stabilised.

28 **K304 - Matters to be addressed prior to commencement of proposed carpark construction works**

Work on the proposed carpark shall not commence until:

- a Construction Certificate (if required) 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.

A Notice of Commencement is to be submitted to Penrith City Council two (2) days prior to commencement of engineering works or clearing associated with the subdivision.

29 **K502 - Works as executed – General and Compliance Documentation**

Prior to the issue of an Occupation Certificate for the proposed carpark, works-as-executed drawings, final operation and maintenance management plans and any other compliance documentation shall be submitted to the Principal Certifying Authority in accordance with Penrith City Council's Engineering Construction Specification for Civil Works, WSUD Technical Guidelines and Stormwater Drainage for Building Developments.

An original set of works-as-executed drawings and copies of the final operation and maintenance management plans and compliance documentation shall also be submitted to Penrith City Council with notification of the issue of the Occupation Certificate where Council is not the Principal Certifying Authority.

30 **K503 - Stormwater Compliance**

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall ensure that the:

- a) Stormwater management systems
- Have been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent.
 - Have met the design intent with regard to any construction variations to the approved design.
 - Any remedial works required to be undertaken have been satisfactorily completed.

Details of the approved and constructed system/s shall be provided as part of the works-as-executed drawings.

31 **K601 - Stormwater Management system operation and maintenance**

The stormwater management systems shall continue to be operated and maintained for the life of the development in accordance with the final operation and maintenance management plan.

Subdivision

32 **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.

33 M008 - Linen Plan

Submission of the original Linen Plan and five (5) 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.

34 M009 - 88B Instrument

The linen plan of subdivision is to be supported by an 88B instrument creating a Restriction as to User or easement regarding the following:

a) Provision of Right of Carriageway within the proposed Lot 4 to ensure access to the existing lots Lot 2 DP 229462 and Lot 82 DP 1129226 from McCarthys Lane or Castlereagh Road is maintained.

b) Residue Allotment - no development or building shall be allowed or be permitted to remain on the named lot unless satisfactory arrangements have been made with Penrith City Council for services (water, sewer, electricity and telephone), any outstanding contributions or consolidation with adjoining lots.

Penrith City Council shall be nominated as the only authority permitted to modify, vary or rescind such restriction as to user.

Payment of Fees

35 P001 - Costs

All roadworks, dedications and drainage works are to be carried out at the applicant's cost.

36 P002 - Fees associated with Council land (Applies to all works & add K019)

Prior to the commencement of any works on site, all fees associated with Penrith City Council-owned land and infrastructure shall be paid to Council. These fees include Road Opening fees and Infrastructure Restoration fees.

Certification

37 Q001 - Notice of Commencement & Appointment of PCA1

Prior to the commencement of any earthworks, construction or demolition works on site, the proponent is to:

- employ a Principal Certifying Authority to oversee that the said works carried out on the site are in accordance with the development consent and related Construction Certificate issued for the approved development, and with the relevant provisions of the Environmental Planning and Assessment Act and accompanying Regulation, and
- submit a Notice of Commencement to Penrith City Council.

The Principal Certifying Authority shall submit to Council an "Appointment of Principal Certifying Authority" in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

Information to accompany the Notice of Commencement

Two (2) days before any earthworks or construction/demolition works are to commence on site (including the clearing site vegetation), the proponent shall submit a "Notice of Commencement" to Council in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

38 Q004 - Occupation Certificate (Staged DA)

An Occupation Certificate shall be sought from the Principal Certifying Authority prior to occupation of or commencement of use of each stage of the development. Before the Occupation Certificate can be issued for each stage of the development, a Compliance Certificate or other documentation suitable to the Principal Certifying Authority shall be sought indicating that all conditions of this development notice, but not those conditions relating to the operations of the development, commensurate with that stage of the development have been satisfied or met prior to the occupation or use of that stage of the development.

A copy of the Compliance Certificate or other documentation shall be submitted to Penrith City Council if obtained from an accredited certifier. A copy of the Occupation Certificate is also to be submitted to Penrith City Council, if Council is not the Principal Certifying Authority.

Appendix - Development Control Plan Compliance

Development Control Plan 2006

Part 2 - City wide controls

1.1 *Contaminated Land*

The proposed amendment does not change acceptance of the proposal having regard to these standards within the DCP.

2.5 *Heritage Management*

The proposed amendment does not change acceptance of the proposal having regard to these standards within the DCP.

2.8 *Significant Trees and Gardens*

The proposed amendment does not change acceptance of the proposal having regard to these standards within the DCP.

2.10 *Flood Liable Land*

The proposed amendment does not change acceptance of the proposal having regard to these standards within the DCP.

2.11 *Carparking*

Although there are no specific numerical requirements for cemetery, it is considered that the proposed 200m² sealed carpark would facilitate access and parking of the cemetery. Therefore the proposal is still supported.

4.7 *Residential Subdivision*

The proposed amendment does not change acceptance of the proposal having regard to these standards within the DCP.