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26 November 2013

The General Manager  
Penrith City Council  
PO Box 60  
PENRITH NSW 2751

Surveying  
Urban Planning  
Project Management  
Tenancy & Building  
Strata Certification  
Engineering  
Spatial

**Attn: Mr Gavin Cherry, Principal Planner**

Dear Sir,

**DA 13/0288  
PROPOSED RESIDENTIAL SUBDIVISION (21 LOTS)  
SECTION 82A REVIEW OF DETERMINATION OF 14 NOVEMBER 2013  
PROPERTY: LOT 1 DP 1144668 ANDROMEDA DRIVE & CASSAR CRESCENT CRANEBROOK**

Thank you for advice in relation to the above matter, and the opportunity to now submit an application for Council to review its recent determination of DA 13/0288 pursuant to Section 82A of the Environmental Planning and Assessment Act 1979.

Our Application for this review is supported by the following enclosed documentation:

- ii) Development Application Form (S82A)
- iii) Statement of Environmental Effects (updated) Ref: I117UR-SEE V006 dated 25/11/ 2013
- iii) Subdivision Layout Plans (Ref: I117EG P12.1 and P12.2)
- iiiv) Drainage Strategy Report (Ref I117EG Version 4 dated November 2013)
- iv) *Flora and fauna Report (SLR Consultants, Ref 610.11706\_FFAR\_v3.0, Dated 25 November 2013)*
- ivi) Vegetation Management Plan (SLR Consultants, Ref 610.11706 Dated 22 October 2013)
- ivii) Traffic Impact Statement (Thompson Stanbury Associates , Dated April 2013)
- iviii) Bushfire Assessment Report (ABPP, Dated 5 June 2013 )
- iiix) Landscape Plan (NBRS+P Ref: 13633-LCD01-A, Issue B, Dated October 2013)
- ix) Acoustic Report (Acoustic Logic, Ref 20130425/1010A/R1/YK, Dated 10 October 2013)
- ixi) Stormwater Treatment Measures Maintenance Schedule Cranebrook (November 2013)

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- ixii) The project proponent's letter of formal offer, indicating the proposed contributions to Council in respect of ongoing bio-retention basin maintenance, dated 19 November 2013
- ixiii) Cheque in the amount of \$1,285.00, being relevant fees.

In relation to the matters raised in Council's Notice of Determination dated 15 November 2013, please note that the enclosed documentation specifically includes:

- 1) An additional copy of the Vegetation Management Plan prepared by SLR Consulting (Ref 610.11706 Dated 22 October 2013), as recently emailed to Council;
- 2) Further evidence that the application is satisfactory for the purpose of Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act, in that the proposal is fully consistent with all relevant provisions of Penrith Local Environmental Plan 1998 (Urban Lands), and Council's stated objectives for the 2(b) Residential (Low Density) Zone; and
- 3) Further documentation clarifying the proposed arrangements for stormwater management and disposal, including arrangements for construction and completion of the bio-retention basin. In addition, a formal letter of offer from the project proponent, confirming the proposed schedule of contributions to be made to Council for ongoing maintenance, is also enclosed.

#### **Requested Review**

Review of Council's recent determination is requested for the following reasons:

- A Vegetation Management Plan (VMP) supporting the proposed development was submitted to Council in November 2013. This VMP does not appear to have been taken into account in Council's recent determination.
- The proposal is fully consistent with Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act and the relevant provisions of Penrith Local Environmental Plan 1998 (Urban Land). Specifically, the subject site at Andromeda Drive, Cranebrook, has been zoned for residential development for many years, and is also essentially surrounded by residential subdivision of a nature and scale similar to that which is proposed in the current application. In addition, the site maintains physical characteristics that are, in many respects, identical the adjacent lands now occupied by residential subdivisions.
- The proposal, as modified in consultation with Council officers, is considered consistent with Section 79C(1)(b) of the Environmental Planning and Assessment Act, as it now includes a formal offer to enter into an agreement to make a contribution to Council in respect of the proposed bio-retention basin.

Please note that the Review of Council's determination requested in this application relates to the proposed allotment layout (21 residential lots), as previously submitted to Council 30 August 2013. The enclosed Statement of Environmental Effects (dated 21/11/2013) also now includes minor updates to provide consistency with this layout.

Further justification of the modified proposal is included in the attached schedule.



Again, we look forward to continuing to work with Council to achieve a long term sustainable outcome for this significant residential site.

Yours faithfully,

A handwritten signature in black ink, appearing to read "Myall Stevens". The signature is fluid and cursive, with a large, sweeping flourish at the end.

**Myall Stevens**  
**INSITES**

## SCHEDULE

### JUSTIFICATION FOR SECTION 82A REVIEW OF DETERMINATION OF 14 NOVEMBER 2013

DA 13/0288

PROPOSED RESIDENTIAL SUBDIVISION (21 LOTS)

PROPERTY: LOT 1 DP 1144668 ANDROMEDA DRIVE & CASSAR CRESCENT CRANEBROOK

#	Stated Reason for Refusal	Comment & Response
1	The application is not satisfactory for the purpose of Section 5A of the Environmental Planning and Assessment Act as the application has not been supported by a Vegetation Management Plan.	Additional copies of the Vegetation Management Plan (VMP) prepared by SLR Consulting Australia (dated 22 October 2013) are enclosed. This VMP sets out the proposed method of ensuring that use of the site for the purposes of residential subdivision is carried out in a manner which is wholly ecologically sustainable. The VMP further demonstrates that the current proposal, as discussed with Council on 30 August 2013, is satisfactory for the purpose of Section 5A of the Environmental Planning and Assessment Act.
2	The application is not satisfactory for the purpose of Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act as the proposal is inconsistent with the following provisions of Penrith Local Environmental Plan 1998 (Urban Lands): <ul style="list-style-type: none"> <li>Clause 7 the objectives of the zone as far as 'allowing a limited range of compatible non-residential uses'.</li> </ul>	The proposal is fully consistent with Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act and the relevant provisions of Penrith local Environmental Plan 1998 (Urban Land), and Council's stated objectives for the 2(b) Residential (Low Density) Zone. Specifically, the subject site at Andromeda Drive, Cranebrook, has been zoned for residential development for many years, and is also essentially surrounded by residential subdivision of a nature and scale similar to that which is proposed in the current application. In addition, the site maintains physical characteristics that are, in many respects, identical the adjacent lands now occupied by residential subdivisions.
3	The application is not satisfactory for the purpose of Section 79C(1)(b) of the Environmental Planning and Assessment Act in terms of: <ul style="list-style-type: none"> <li>the likely economic impacts of the development on Council resulting from the partial implementation, maintenance and embellishment of the bio-retention basin and;</li> </ul>	It is confirmed that construction and maintenance of the proposed bio-retention basin are to be funded by the Developer. Specifically, Following issue of the final Subdivision Certificate, it is intended that the basin will transfer to the ownership of Council as public reserve, being adjacent to the proposed additional dedicated widening of Cassar Crescent. In relation to this proposed land dedication, the proponent has offered to make a contribution to Council to cover the long-term maintenance of the bio-retention basin, following issue of the final Subdivision Certificate.  Two options are presented for Council's consideration.

#	Stated Reason for Refusal	Comment & Response
		<p>Option 1 provides a contribution of <b>\$70,238.00</b>, payable prior to issue of the Subdivision Certificate, at which time Council would assume responsibility for ongoing basin maintenance.</p> <p>Option 2 provides a contribution of <b>\$25,644.09</b>, again payable prior to issue of the Subdivision Certificate (at which time land ownership would transfer to Council), but with the Developer to retain responsibility for basin maintenance for a period of four years. Under this option, it is understood that appropriate bonding arrangements would be put in place.</p>
	<ul style="list-style-type: none"> <li>the likely environmental impact of the development as a result of a partially constructed bio-retention basin on a vacant block of land not in private ownership or subject to maintenance agreements.</li> </ul>	<p>As noted above, construction and maintenance of the proposed bio-retention basin are to be funded by the Developer.</p>
	<ul style="list-style-type: none"> <li>the likely environmental impact of the development as a result of the relocation of Ecologically Endangered Community not subject to Vegetation Management Requirements.</li> </ul>	<p>As noted above, the Vegetation Management Plan prepared by SLR Consulting Australia (October 2013) sets out the proposed method of ensuring that use of the site for the purposes of residential subdivision is carried out in a manner which is wholly ecologically sustainable. The VMP further demonstrates that the current proposal, as discussed with Council on 30 August 2013, is satisfactory for the purpose of Section 5A of the Environmental Planning and Assessment Act.</p>
	<ul style="list-style-type: none"> <li>the likely impact on the existing built environment caused by over capacitated stormwater infrastructure post development. In particular, the development has disregarded any upgrading of the roadway drainage infrastructure in Cassar Crescent immediately downstream.</li> </ul>	<p>The enclosed Drainage Strategy Report (November 2013, Version 4, P4 ) indicates:  <i>During recent discussions with Council, it was apparent that it was considered undesirable to upgrade the pipe size at location 'C' from 375 to 525mm as was proposed by InSites to accommodate for the 5 year flows in the existing upstream end of Cassar Crescent. The results shown in Table 5.4.2 shows that while there is a small amount of overland flow during the 5 year event, the existing street drainage system can take the 2 year event with no upgrading of any existing pipe. Given that this area is low density residential, street drainage designed for the 2 year ARI is considered acceptable (refer also to Australian Rainfall and Runoff Section 14.5.1).</i></p> <p>While not considered necessary under these circumstances, upgrading of the existing pipe at Location "C" may be undertaken as part of the development, if considered desirable by Council.</p>