

# PENRITH CITY COUNCIL

## MAJOR ASSESSMENT REPORT

<b>Application number:</b>	DA14/0486
<b>Proposed development:</b>	Demolition of Existing Structures & Torrens Title Subdivision x 2 Lots
<b>Property address:</b>	49 Gibbes Street, REGENTVILLE NSW 2745
<b>Property description:</b>	Lot 114 DP 1687
<b>Date received:</b>	13 May 2014
<b>Assessing officer</b>	Gurvinder Singh
<b>Zoning:</b>	Zone R2 Low Density Residential - 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 a Torrens Title subdivision into two lots at the subject site. The site is zoned 2(b) Residential (Low Density) under Penrith Local Environmental Plan (LEP) 1998 (Urban Land). Subdivision of land is permissible under the zone with the consent of Council.

The development application was placed on public exhibition from 16 to 30 May 2014 and during the exhibition period no submissions were received.

An assessment of the proposed development has been undertaken under Section 79C of the Environmental Planning and Assessment Act 1979. Council's Engineering and Building Sections have been consulted and the development application is recommended for approval.

### Site & Surrounds

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The subject site is located on the eastern side of Gibbes Street around 230m east of its intersection with Loftus Street, Regentville. The site is 1393.5m<sup>2</sup> in area and it is relatively level. The site has a regular shape with a frontage of 30.48m and a depth of 45.72m. A dwelling and associated structures exist on the site. The surrounding area is established residential having mainly single dwellings.

### Proposal

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The proposal involves subdivision of the subject land into two lots under the Torrens Title system. The two lots, Lot 10 and Lot 11, are proposed to have an area of 696.77m<sup>2</sup> and a frontage of 15.24m each. The existing dwelling and structures on site are proposed to be demolished.

### Plans that apply

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- Penrith Local Environmental Plan 1998 (Urban Land)
- Development Control Plan 2006
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

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

##### **Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River**

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

##### **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 - Aquisition 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	Complies
Clause 29 - Prohibited access	N/A
Clause 30 - Development on contaminated land	N/A
Clause 31 - Development for the purposes of advertisement	N/A
Clause 32 - Flood Liable Land	N/A
Clause 33 - Development of certain land for medical centres	N/A
Clause 34 - Consent required for subdivisions	N/A
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

## Permissibility

The subject site is zoned 2(b) Residential (Low Density) under the provisions of the Penrith LEP 1998 (Urban Land). The proposed subdivision is permissible in the zone with Council's consent.

### Clause 10 Subdivision Controls Generally

The above clause stipulates as follows:

*'The objectives of this clause are to prescribe minimum lot areas and minimum lot widths for land within a residential or rural-residential zone that will:*

- a) *provide for development that promotes housing choice*
  - b) *encourage lot dimensions and lot areas appropriate for development permissible in each zone*
  - c) *maintain the prevailing settlement patterns in each of the residential and rural-residential zones, and*
  - d) *permit "strata" subdivision of dual occupancy and multi-unit housing development.*
- (5) *The council must not grant consent to subdivision of land within Zone No 2 (a1), 2 (a), 2 (b), 2 (c), 2 (d) or 2 (e) unless the area and width of each of the resultant lots will be in accordance with the controls for the zone set out in Table 1 below:*

**Table 1 General Subdivision Controls**

Zone No	Standard lot		Internal lot	
	minimum area	minimum width	minimum area	minimum width
2 (a1)	600 m <sup>2</sup>	20 m	700 m <sup>2</sup>	20 m
2 (a)	600 m <sup>2</sup>	15 m	700 m <sup>2</sup>	20 m
2 (b)	550 m <sup>2</sup>	15 m	650 m <sup>2</sup>	15 m
2 (c)	475 m <sup>2</sup>	12 m	525 m <sup>2</sup>	15 m
2 (d)	400 m <sup>2</sup>	12 m	450 m <sup>2</sup>	15 m
2 (e)	400 m <sup>2</sup>	10 m	450 m <sup>2</sup>	12 m

(6) *Despite the provisions of subclause (5), the council may consent to development that involves a subdivision of land in Zone No 2 (c), 2 (d) or 2 (e) that creates lots with smaller areas or narrower widths than the minimum areas or widths specified in Table 1, but only if:*

- a) *the development proposed includes the erection of at least one dwelling on each lot in the site area, or*
- b) *the development proposed is the subdivision of an existing or consented to dual occupancy or multi-unit housing.'*

Table 1 shows development standards for lot area and width appropriate for development in each zone. The area and width of the proposed lots are as follows:

Zone No	Lot 10		Lot 11	
	Area	Width	Area	Width
2 (b)	696.77m <sup>2</sup>	15.24m	696.77m <sup>2</sup>	15.24m

The proposed lot areas and widths of both the lots comply with the required development standards of lot area and width for the 2(b) zone.

The proposed subdivision of land will maintain the prevailing subdivision pattern.

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

The subject site is located in the R2 Low Density Residential zone under the Draft Penrith LEP 2010 (Stage 2). The proposal is in accordance with the provisions of the Draft LEP 2010 (Stage 2).

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

### Development Control Plan 2006

Provision	Compliance
Chapter 2.1 - Contaminated land	Complies
Chapter 2.2 - Crime prevention through environmental design	N/A
Chapter 2.3 - Engineering works	N/A
Chapter 2.4 - Erosion and sediment control	N/A
Chapter 2.5 - Heritage management	N/A
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	N/A
Chapter 2.10 - Flood liable land	N/A
Chapter 2.11 - Car parking	N/A
Chapter 2.12 - On-site sewage management	N/A
Chapter 2.13 - Tree preservation	N/A
Chapter 4.7 - Guidelines for subdivision	Complies - see Appendix - Development Control Plan Compliance

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

Council's Building Section has raised no objection to the proposed development regarding fire safety as prescribed under the Environmental Planning and Assessment Regulation 2000.

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

### *Character*

The proposed development is considered to be in keeping with the existing low density residential character of the area. The proposed subdivision will result in opportunities to further develop the resultant sites.

### *Access and Traffic*

Separate access to the two proposed lots will be from driveways off Gibbes Street. The proposal will produce a consistent increase in local traffic flow; however, no adverse traffic generation impacts are expected from the proposed development. The local road network will have adequate spare capacity to cater for this traffic generation.

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

The subject site is located within an established low density residential area. The site is not affected by any overland flows, landslip or movement. The proposed development will achieve a density consistent with the aims for the 2(b) low density zone. It is considered that the site is suitable for the development.

## Section 79C(1)(d) Any Submissions

### Community Consultation

## Internal 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>
<i>Building Surveyor</i>	No objection subject to conditions.
<i>Development Engineer</i>	No objection subject to conditions.

## Community Consultation

In accordance with Penrith Development Control Plan 2006, the proposed development was placed on public exhibition from 16 to 30 May 2014. No submissions were received.

### 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>
Development Engineer	No objections - subject to conditions

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

The proposed development will result in a density as required under LEP 1998 (Urban Land). The character of the 2(b) low density zone will not be adversely affected. Such an outcome will be in the public interest.

### Section 94 Contributions

Section 94 Contributions are applicable. Refer to Proclaim for details of these contributions.

## Conclusion

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The proposed subdivision is consistent with the requirements of the relevant planning instruments and development control plan. The proposed development complies with the lot width and lot area development standards. The site is suitable for the proposed development. The proposal is considered to be in the public interest.

## Recommendation

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1. That DA14/0486 be approved subject to the attached conditions.

# CONDITIONS

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## General

### 1 A001

The development must be implemented substantially in accordance with the plan numbered 1, revision A, drawn by Residential Logistics P/L, dated 1 April 2014 and stamped approved by Council, the application form and any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

### 2 A046 - Obtain Construction Certificate before commencement of works

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

## Demolition

### 3 B001 - Demolition of existing structures

The existing dwelling and associated structures on the subject site are to be demolished as part of the approved work prior to the issue of a subdivision certificate.

### 4 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**.

### 5 B003 - ASBESTOS

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

**Prior to commencement of demolition works on site**, a portaloos 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 Environmental Protection Authority to receive asbestos wastes.

### 6 B004 - Dust

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

### 7 B005 - Mud/Soil

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

### 8 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.

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

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

## Utility Services

### 9 [G001 - Installation of services and Service Clearances \(subdivision\)](#)

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

### 10 [K202A - Infrastructure Bond](#)

An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Council's Public Infrastructure Assets. The bond is to be lodged with Council **prior to the issue of a Construction Certificate**. The bond is based upon the estimated value of the works with a bond of \$1,000 payable for the subject development.

The bond is refundable once a final inspection has been carried out by Council's City Works Department and the works have been completed to Council's satisfaction. The bond may be used to repair or reinstate any damage that occurs to Council's Public Infrastructure Assets as a result of the development works.

Contact Council's City Works Department on 4732 7777 or visit Council's website to obtain the form and request for final inspection.

### 11 [K205 - Construction Certificate for Subdivision Works](#)

**Prior to the issue of a Construction Certificate** for subdivision works the Certifying Authority shall ensure that all subdivision 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 subdivision works may include but are not limited to the following:

- Sediment and erosion control measures
- Earthworks to ensure all lots are regraded towards Gibbes Street

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.

### 12 [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.



### 13 [K302 - Traffic Control Plan](#)

**Prior to commencement of works**, a Traffic Control Plan including details for pedestrian management shall be prepared in accordance with AS 1742.3 "Traffic Control Devices for Works on Roads" and the Roads and Traffic Authority's publication "Traffic Control at Worksites" and certified by an appropriately accredited Roads and Traffic Authority Traffic Controller.

Traffic control measures shall be implemented during the construction phase of the development in accordance with the certified plan. A copy of the plan shall be available on site at all times.

Note: A copy of the Traffic Control Plan shall accompany the Notice of Commencement to Penrith City Council.

### 14 [K304 - Matters to be addressed prior to commencement of Subdivision Works](#)

Work on the subdivision 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.

### 15 [K408 - Soil testing - Subdivisions](#)

Soil Testing is to be carried out to enable each lot to be classified according to AS 2870 "Residential Slabs and Footings".

### 16 [K501A - 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.

### 17 [K514 - Subdivision Compliance documentation](#)

**Prior to the issue of a Subdivision Certificate**, the following compliance documentation shall be submitted to the Principal Certifying Authority. A copy of the following documentation shall be provided to Council where Council is not the Principal Certifying Authority:

- a) Work as Executed (WAE) drawings of all civil works. The WAE drawings shall be marked in red on copies of the stamped Construction Certificate drawings signed, certified and dated by a registered surveyor or the design engineer. The Work as Executed drawings shall be prepared in accordance with Council's Engineering Construction Specification for Civil Works.
- b) The WAE drawings shall be accompanied by plans indicating the depth of fill for the entire development site. The plans must show, by various shadings or cross hatchings, the depth of any fill within 0.3m depth ranges.
- c) Surveyor's Certificate certifying that all pipes and services are located wholly within the property or within appropriate easements and that no services encroach boundaries.
- b) A Geotechnical Report certifying that all earthworks have been completed in accordance with AS 3798 and Council's Design Guidelines and Construction specifications. The report shall include:
  - Compaction reports for bulk earthworks and lot regrading.
  - Soil classification for all residential lots.
    - Statement of Compliance.

## Subdivision

## 18 [M008 - Linen Plan](#)

The application for a subdivision certificate shall include the original Linen Plan and ten (10) 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:

- All existing services are wholly contained within the lot served and/or covered by an appropriate easement.

## 19 [M014 - Surveyors certificate](#)

A Surveyor's 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.

## Development Contributions

### 20 [N001 - Section 94 contribution \(apply separate condition for each Contribution Plan\)](#)

This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan(s) for Cultural Facilities. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$408 is to be paid to Council prior to a Subdivision Certificate being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The S94 invoice accompanying this consent should accompany the contribution payment. The Section 94 Contributions Plan may be inspected at Council's Civic Centre, 601 High Street, Penrith.

### 21 [N001 - Section 94 contribution \(apply separate condition for each Contribution Plan\)](#)

This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan(s) for District Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$5633 is to be paid to Council prior to a Subdivision Certificate being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The S94 invoice accompanying this consent should accompany the contribution payment. The Section 94 Contributions Plan may be inspected at Council's Civic Centre, 601 High Street, Penrith.

### 22 [N001 - Section 94 contribution \(apply separate condition for each Contribution Plan\)](#)

This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan(s) for Local Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$2036 is to be paid to Council prior to a Subdivision Certificate being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The S94 invoice accompanying this consent should accompany the contribution payment. The Section 94 Contributions Plan may be inspected at Council's Civic Centre, 601 High Street, Penrith.

## Payment of Fees

### 23 [P001 - Costs](#)

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

## Certification

### 24 [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.

# Appendix - Development Control Plan Compliance

## Development Control Plan 2006

### Part 4 (Chapter 4.7) - Guidelines for subdivision

Penrith Development Control Plan (DCP) 2006 applies to the site. The DCP requires consideration of the following relevant matters:

- a) Slope and orientation of land
- b) Opportunities for solar and daylight access to future dwellings
- c) Design of road and access ways (individual site access)
- d) Retention of special qualities or features such as trees and views
- e) Availability of utilities
- f) Provision of adequate site drainage
- i) Heritage and archaeological conservation
- l) The enhancement of existing or future subdivision character.

**The slope and orientation of the proposed lots is satisfactory. The matters relating to solar access were found to be satisfactory. No trees are proposed to be removed. Any future driveway can be accommodated between existing street trees. No special views exist on the site. Utilities can be imposed as a condition of consent. Site drainage is satisfactory. The site is not identified for heritage or archaeological conservation. The proposed subdivision will result in similar allotments as most allotments on the street. As a result the proposal will enhance the existing subdivision character of the street.**