

# PENRITH CITY COUNCIL

## MAJOR ASSESSMENT REPORT

<b>Application number:</b>	DA16/1155
<b>Proposed development:</b>	Boundary Adjustment - Creation of 2 Lots and 4 Residue Lots.
<b>Property address:</b>	207 Caddens Road, CADDENS NSW 2747 143 - 159 OConnell Street, CADDENS NSW 2747
<b>Property description:</b>	Lot 51 DP 1189505 Lot 755 DP 1180111
<b>Date received:</b>	1 November 2016
<b>Assessing officer</b>	Gannon Cuneo
<b>Zoning:</b>	Zone R1 General 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 boundary adjustment at 207 Caddens Road and 143-159 OConnell Street, Caddens. In accordance with Clause 2.6 of Penrith Development Control Plan 2010, the proposed development is permissible. The subject site is zoned R1 General Residential and is located within Caddens Release Area.

The application is integrated development in accordance with the Rural Fires Act 1997. The application has been notified and advertised between 18 November and 20 December 2016 and was notified to 14 adjoining properties. One submission was received in response which provides conditional support of the application.

An assessment under Section 79C and 91 of the Environmental Planning and Assessment Act 1979 has been undertaken and the application is recommended for approval subject to recommended conditions.

## Site & Surrounds

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### ***Properties of the site***

The subject site is currently vacant and is predominantly characterised as grassland with remnant vegetation. The subject site comprises the following properties:

- Lot 755 in DP 1180111 which is identified as 207 Caddens Road, Caddens; and
- Lot 51 in DP 1189505 which is identified as 143-159 OConnell Street, Caddens.

The topography of the subject site varies from 68.5 at the north western corner of Lot 755 to 42.5 at the eastern boundary of Lot 755. The site therefore has a slope from west to east which is discussed further in this report. The surrounding area is characterised by OConnell Street and University of Western Sydney to the north, State Archives and Claremont Meadows to the east, existing rural residential development and Caddens Road to the south and existing residential development and vacant land to the west.

### ***Site constraints***

The subject site contains an Easement to Drain Water 16 and 72.3 Wide and is located at the northern aspect of Lot 51. This easement will remain on the subject site until the site is developed in accordance with the Caddens Release Area Structure Plan. The subject site is not identified as being affected by mainstream flooding, however the southern aspect of Lot 755 is affected by local overland flooding from tributaries of Werrington Creek. The application has been referred to Council's Development Engineer who has raised no objection to the proposal. The subject site is identified as Bushfire prone land and is therefore integrated development with the Rural Fire Service.

### ***History***

Previous consents for the site include:

- Lot 755 - No previous consents issued for the site.
- Lot 51 - CCx13/0034 - Caddens Stage 7 Roads and Drainage

The applicant attended a pre-lodgement meeting (PL16/0113) with the Development Advisory Panel on 29 September 2016 for the future development of the subject site. The prelodgement meeting identified the need to undertake a staged boundary adjustment to create a number of super lots for the staged development of 257 torrens title residential lots. This development application is the first of a two stage boundary adjustment to create the proposed super lots.

## Proposal

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The proposed development involves the boundary adjustment between the following lots:

- Lot 755 in DP 1180111 which is identified as 207 Caddens Road, Caddens and is 5.59 hectares in area; and
- Lot 51 in DP 1189505 which is identified as 143-159 OConnell Street, Caddens and is 8.117 hectares in area.

The boundary adjustment of the abovementioned lots will create the following lots:

- Lot 1 being 1.017 hectares in area and is created as a residue lot;
- Lot 2 being 4.642 hectares in area;
- Lot 3 being 4.819 hectares in area;
- Lot 4 being 634.9m<sup>2</sup> in area and is created as a residue lot;
- Lot 5 being 3.241 hectares in area and is created as a residue lot; and
- Lot 6 being 237m<sup>2</sup> in area and is created as a residue lot.

No physical works are proposed and it is understood that the boundary adjustment proposed as above will allow for the staged residential subdivision, which is subject to future determination. The proposed boundary adjustment is the first stage in a two stage boundary adjustment which will allow for the creation of a number of super lots which will be further developed subject to future development applications.

The subject site is currently vacant, being free from any structures and is predominantly characterised as grassland with remnant vegetation. The subject development application is for a boundary adjustment only.

## Plans that apply

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- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

## Planning Assessment

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### • 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 the following assessment is provided based on those requirements.

### • Section 91- Integrated development

In accordance with Section 91 of the Environmental Planning and Assessment Act 1979, the proposed development is integrated development. Under Section 100B of the Rural Fires Act 1997, development being the subdivision of land that could lawfully be used for residential or rural residential purposes is required to be assessed by a bushfire safety authority.

The application has been referred to NSW Rural Fire Service. The NSW RFS is deemed a bushfire safety authority and has provided a response regarding the proposed boundary adjustment. The proposed development does not involve physical works and is for the creation of 2 super lots and 4 residue lots. Therefore, a condition of consent has been included which requires the subject site to be maintained as an inner protection zone in accordance with 'Planning for Bushfire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'. Based on Council's assessment of the proposed boundary adjustment and the comments provided by NSW Rural Fire Service, the proposed development has satisfied the requirements of Section 91 of the Act.

## 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 with Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River (No 2—1997) and the application is satisfactory subject to recommended conditions of consent.

### **Local Environmental Plan 2010 (Amendment 4)**

Provision	Compliance
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Permissibility	Complies
Clause 2.3 Zone objectives	Complies - See discussion
Clause 4.1 - Minimum subdivision lot size	Complies - See discussion
Clause 5.9 Preservation of trees or vegetation	Complies - See discussion
Clause 5.10 Heritage conservation	Complies - See discussion
Clause 6.2 Public utility infrastructure	Complies - See discussion
Clause 6.3 Development control plan	Complies - See discussion
Clause 7.1 Earthworks	Complies - See discussion

### **Clause 2.3 Zone objectives**

The subject site is zoned R1 General Residential under Penrith Local Environmental Plan 2010. The objectives of the R1 zone are:

- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To ensure that a high level of residential amenity is achieved and maintained.
- To ensure that new development reflects the desired future character and dwelling densities of the area.

The objectives of the R1 zone outlined above aim to provide opportunities for a variety of residential developments in areas that are centrally located with high amenity. The subject site is located within Caddens Release Area Structure Plan and is identified as being a site for future development for residential and recreational purposes. The proposed development seeks a boundary adjustment to allow for the future staged residential development to be located on the site. Therefore, the proposed boundary adjustment meets the objectives of the R1 zone.

### **Clause 4.1 - Minimum subdivision lot size**

The minimum lot size for the subject site varies under Penrith Local Environmental Plan 2010. Part of the western aspect of the site has a minimum lot size of 450m<sup>2</sup>, with the remainder of the site not requiring a minimum lot size. The proposed boundary adjustment will create 2 super lots, being 4.6ha (Lot 2) and 4.8ha (Lot 3) in area, and 4 residue lots. The smallest of the residue lots is 237m<sup>2</sup> (Lot 6) and is located on the site in area that has no minimum lot size. All lots on the subject site therefore comply with the minimum lot size requirements of the LEP.

### **Clause 5.9 Preservation of trees or vegetation**

No trees are proposed to be removed for the development.

### **Clause 5.10 Heritage conservation**

The subject site is located in the vicinity of an item of European Heritage. It is anticipated the proposed boundary adjustment will not impact on the significance of the heritage item as there are no physical works. Any future development of the site will ensure this aspect of the site is addressed.

### **Clause 6.2 Public utility infrastructure**

The provision of public utility infrastructure will be subject to future development of the lots created by the proposed boundary adjustment.

### **Clause 6.3 Development control plan**

The objective of Clause 6.3 is *"to ensure that development on land in an urban release area occurs in a logical and cost-effective manner, in accordance with a staging plan and only after a development control plan that includes specific controls has been prepared for the land"*. Chapter E1 Caddens of Penrith Development Control Plan 2014 provides development controls which aim to facilitate the sustainable development of residential, mixed use, retail, open space and conservation areas of Caddens. The proposed boundary adjustment complies with the requirements of this clause as it allows for the future subdivision of land in a timely and efficient manner.

### **Clause 7.1 Earthworks**

There are no earthworks proposed with the proposed boundary adjustment. Any earthworks will be captured by subsequent application/s for the further development of the land.

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

### Development Control Plan 2014

Provision	Compliance
DCP Principles	Complies
C1 Site Planning and Design Principles	Complies
C2 Vegetation Management	Complies
C3 Water Management	Complies
C4 Land Management	Complies
C5 Waste Management	N/A
C6 Landscape Design	N/A
C7 Culture and Heritage	Complies
C8 Public Domain	N/A
C9 Advertising and Signage	N/A
C10 Transport, Access and Parking	N/A
C11 Subdivision	Does not comply - see Appendix - Development Control Plan Compliance
C12 Noise and Vibration	N/A
C13 Infrastructure and Services	Complies - see Appendix - Development Control Plan Compliance
E1 Caddens controls	Complies - see Appendix - Development Control Plan Compliance

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

There are no planning agreements applying to this application. A planning agreement will be subject to negotiation between Council and the developer for the future development of the site.

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

In accordance with Division 3 of the Environmental Planning and Assessment Regulation 2000, the proposed development is integrated development with the NSW Rural Fire Service. This is covered under Section 91 of this report. The proposed development complies with the requirements of the Regulations.

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

It is understood that the proposed development is for a boundary adjustment only, which will allow for the future staged residential subdivision of the land in a timely and efficient manner. No physical works are proposed, therefore the likely impacts of the proposed development are minor.

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

The site is suitable for the proposed development as it has been identified within Caddens Release Area Structure Plan as being part of the future development of Caddens. The proposed development is for the boundary adjustment of two lots to create two super lots and 4 residue lots which are subject to future development applications for further development of those lots.

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

### Community Consultation

In accordance with the Act and Regulations, consideration has been given to any necessary referrals and any submissions made.

### **Community consultation**

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

The application is an integrated development under the Rural Fires Act 1997 and was therefore advertised between 18 November and 20 December 2016.

Council notified 14 residences in the area and the exhibition period was between 18 November and 20 December 2016. Council has received one submission in response.

### **Submissions**

The submission received in response to the proposed development provides conditional support subject to compliance with the plan that was provided for notification. The development remains the same as at the time of lodgement and notification and is therefore recommended for approval.

### **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>
Building Surveyor	No objections
Development Engineer	No objections
Environmental - Environmental management	No objections

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

The proposed development is for a boundary adjustment and no physical works are proposed. It is anticipated that the proposed development will not generate any significant issues of public interest.

### **Conclusion**

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In assessing this application against the current relevant instruments being Environmental Planning and Assessment Act 1979, Rural Fires Act 1997, Sydney Regional Environmental Plan No. 20 - Hawkesbury-Nepean River, Penrith Local Environmental Plan 2010 and Penrith DCP 2014, with appropriate conditions, the proposal satisfies the requirements.

With the recommended conditions of consent, it is considered unlikely to have a negative impact on the surrounding properties and environment, the site is suitable for the development proposed and is considered to complement the existing surrounding developments.

### **Recommendation**

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1. That DA16/1155 for Boundary Adjustment at 207 Caddens Road and 143-159 OConnell Street, Caddens, 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 stamped approved Plan of Subdivision (Reference number 20467-C2, Prepared by Vince Morgan Surveyors, Dated 08.10.16), 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 A Special - APZ

At the issue of a Subdivision Certificate, and in perpetuity, the entire property shall be managed as an inner protection area (IPA) as outlined within 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'.

### 3 A Special (BLANK)

Proposed Lots 1, 4, 5 and 6 are to be created as residue lots subject to future development application/s.  
Proposed lots 2 and 3 are to be created as super lots, subject to future development application/s.

## Environmental Matters

### 4 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.

## Subdivision

### 5 M008 - Linen Plan

Submission of the original Linen Plan and six (6) 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.

## Certification

### 6 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 2014

### Part C - City-wide Controls

#### *C11 Subdivision*

The proposed boundary adjustment does not comply with the relevant sections of Chapter C11 in Penrith Development Control Plan 2014. The development controls outlined in Chapter C11 relate to the provision of infrastructure and providing a subdivision pattern that is reflective of the site attributes. The proposed boundary adjustment seeks to create two super lots which will be developed into residential lots in the future. Although the proposal does not comply with the requirements of Chapter C11, the proposed boundary adjustment allows for the orderly and economic release of land for residential development. The future development of the site through subsequent applications will address the specific development controls outlined in Chapter C11 and is a suitable outcome for the subject site.

#### *C13 Infrastructure and Services*

The existing services and infrastructure servicing the site will not be amended, upgraded or installed at this stage of the development of the subject site. Subsequent applications will address the requirements of this section of the DCP and will ensure the infrastructure servicing the future proposed development will be appropriate.

### **E1 Caddens**

The subject site is located within the eastern precinct of Caddens as identified in the Caddens Release Area Structure Plan. The structure plan establishes the urban structure and form for the future planning and development of the land within Caddens. The proposed boundary adjustment forms part of the staged development of the eastern precinct in Caddens and will allow for the future staged subdivision in accordance with Chapter E1 Caddens of Penrith Development Control Plan 2014. Subsequent development applications will be lodged with Council for the future development of the subject site.