

PENRITH CITY COUNCIL

FAST LIGHT ASSESSMENT REPORT

Application number:	DA21/0151
Proposed development:	Demolition of Existing Dog Kennel & Construction of a Shed
Property address:	60 - 64 Bonner Road, AGNES BANKS NSW 2753
Property description:	Lot B DP 38896
Date received:	10 March 2021
Assessing officer	Lawrence Ligato
Zoning:	E4 Environmental Living - LEP 2010
Class of building:	Class 10a
Recommendation:	Approve

Executive Summary

Council is in receipt of a development application for the subject development on the subject site and the proposal is a permissible land use with Council consent.

Site & Surrounds

The subject site is located on the southern side of Bonner Road, approximately 650m west of its intersection with The Driftway in Agnes Banks. The site is 2.023Ha in area, with a 56m frontage to Bonner Road. The site is currently occupied by an existing dual occupancy and 2 x buildings used as kennels located 55m behind the dwellings and toward the rear of the site.

The surrounding area is characterised by a mix of low density rural-residential development, agricultural and conservation lands.

The site is identified as being bushfire prone land. The site is not affected by any easements but is affected by local overland flow flooding toward the north-west corner of the site.

Proposal

The proposed development involves:

- Demolition of existing dog kennel; and
- Construction of a shed & associated drainage works.

Plans that apply

BUSHFIRE PRONE LAND (ENTIRELY)
1996 CENSUS COLLECTORS DISTRICT
PENRITH DCP 2014
DRAFT LEP 2010 (REVIEW PHASE 1)
GENERAL LIST
CONSENTS - PART 12(A) OF LOCAL GOVERNMENT ACT
CONSENTS - SEC. 92 OF ENVIRONMENTAL PLANNING AND A
MISC - AGRICULTURAL ACTIVITIES WITHIN RURAL AREAS
DCP 2014 - Tree Preservation Controls
LEP 2010 - Dual Occupancy and Secondary Dwellings
DCP 2014 - General Information
PLAN INST - SREP NO 9 EXT IND (NO 2-1995) AA
PLAN INST - SREP NO 20 HAW NEP RIV (NO2-1997) AA
FLOOD RELATED DEVELOPMENT CONTROLS
Local Environmental Plan 2010
Asbestos Policy
PRECINCT 2010
SEC 94 CONTRIB PLAN - CULTURAL FACILITIES
SEC 94 CONTRIB PLAN - LOCAL OPEN SPACE 2007
SEC 94 CONTRIB PLAN - DISTRICT OPEN SPACE FACILS
SEC 7.12 CONTRIB PLAN - PENRITH CITYWIDE
STATE ENV PLANNING POLICIES - GENERAL LIST
NORTH WARD
E4 Environmental Living - LEP 2010
LEP 2010 - Clause 7.2 Flood Planning
LEP 2010 - Clause 4.2A Res Devel and Subdn Prohib
LEP 2010 - Additional Land Use Notes

Planning Assessment

• Section 4.14 - Bushfire prone land assessment

The development has been assessed in accordance with the matters for consideration under Section 4.14 (Consultation and development consent—certain bush fire prone land) of the Environmental Planning and Assessment Act 1979, and having regard to those matters, the following points are made:

- The shed has been relocated to be located within the IPA, rather than the APZ approved in the DA for subdivision of the lot (DA18/0429).
- The shed is greater than 6m from the existing dwelling on site, therefore, there are no additional bushfire construction requirements in accordance with Planning for Bushfire Protection (2019).

• Section 4.15 - Evaluation

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

Section 4.15(1)(a)(i) The provisions of any environmental planning instrument

Is the development permissible in the zone? **Complies**

Is the development consistent with any requirements of environmental planning instruments relevant to this proposal (including any applicable SEPP's, SREP's and LEP's)? **Complies**

Section 4.15(1)(a)(ii) The provisions of any draft environmental planning instrument

Is the development consistent with any draft planning instruments relevant to this proposal

N/A

Section 4.15(1)(a)(iii) Any development control plan

Is the development consistent with the provisions of any development control plan relevant to this proposal?

Does not comply - See discussion

Section 4.15(1)(a)(iv) Any applicable regulations

Is the development consistent the provisions of any regulations relevant to this proposal?

Complies

Section 4.15(1)(b) The likely impacts of the development

Context and setting

Is the development consistent with the bulk, scale colour and design of other development in the locality?	Complies
Will the development have only a minor impact of the amenity of the area and the streetscape?	Complies
Is the development compatible with surrounding and adjacent land uses	Complies
Will the development have no or minimal impact on the amenity of the area in terms of:	
Sunlight (overshadowing):	Complies
Visual and acoustic privacy:	Complies
Views or vista:	Complies

Access and Transport

Will the development have no or minimal impact on the local road system	Complies
Is the existing and any proposed access arrangements and car parking on site adequate for the development?	N/A

Heritage

The property is not subject to any heritage order or is identified as heritage under a planning instrument.	Complies
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Soil

The development will have minimal impact on soil erosion and sedimentation	Complies
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Natural and Technological Hazards

The development is not subject to flooding, subsidence or slip	Complies - See discussion
Land is not considered to be contaminated:	Complies
Bushfire requirements provided for the development	Complies - See discussion
Acoustic requirements provided for the development	N/A

Site design

The development is sensitive to environmental conditions and site attributes.	Complies
Does the development safe guard the health and safety of the occupants	Complies

Section 4.15(1)(c) The suitability of the site for development

Was the site inspected?	Yes
Does the proposal fit locality?	Yes
Are the site attributes conducive to development?	Yes
Will the proposal have minimal social and economic impacts on the locality?	Yes
Has any applicable 88b instrument been considered?	Yes
Does the development propose the removal of trees?	No
Have the plans been checked by any relevant developer groups?	N/A
Has a BASIX certificate been provided?	N/A

Section 4.15(1)(d) Any submissions made in accordance with the EPA Act and Regulations?

Was the application required to be publicly notified?	No
Were any submissions received during the public notification period?	N/A

Section 4.15(1)(e)Public Interest

The application will have minimal impacts on public interest	Complies
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Conclusion/Summary

The site is suitable for the proposed development, the proposal is in the public interest, and there is unlikely to be negative impacts arising from the proposed development.

Therefore, the application is worthy of support, subject to recommended conditions.

Recommendation

That DA21/0151 for Demolition of Existing Dog Kennel & Construction of a Shed at 60 - 64 Bonner Road AGNES BANKS NSW 2753, be approved subject to the attached conditions.

CONDITIONS

General

1 [A001 - Approved plans that are architecturally drawn](#)

The development must be implemented substantially in accordance with the plans 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 [A008 - Works to BCA requirements \(Always apply to building works over \\$12,000\)](#)

The work must be carried out in accordance with the requirements of the Building Code of Australia. If the work relates to a residential building and is valued in excess of \$20,000, then a contract of insurance for the residential development shall be in force in accordance with Part 6 of the Home Building Act 1989.

{Note: Residential building includes alterations and additions to a dwelling, and structures associated with a dwelling house/dwelling such as a carport, garage, shed, rural shed, swimming pool and the like}.

3 [A019 - OCCUPATION CERTIFICATE \(ALWAYS APPLY\)](#)

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

4 [A020 - Use of building](#)

The building shall not be used under any circumstances for any commercial, industrial or habitable residential activity.

5 [A046 - Obtain Construction Certificate before commencement of works](#)

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

6 [A special - septic](#)

The shed is to be located clear of the reserved absorption beds as considered under DA18/0429 as shown on the stamped approved plans.

Demolition

7 [B001 - Demolition of existing structures](#)

The existing dog kennel on the subject site is to be demolished as part of the approved work.

8 [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**.

9 [B003 - ASBESTOS \(amended from Council adopted version\)](#)

Prior to commencement of demolition works on site, a portaloo with appropriate washing facilities shall be located on the site and the Principal Certifying Authority is to be satisfied that:

- Measures are in place so as to comply with the WorkCover Authority's "Short Guide to Working with Asbestos Cement" and
- The person employed to undertake the works is a licensed asbestos removal contractor and is holder of a current WorkCover Asbestos Licence.

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

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

10 [B004 - Dust](#)

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

11 [B005 - Mud/Soil](#)

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

12 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.

13 B Special - prior to

Prior to the commencement of demolition works, an inspection for resident threatened fauna is to be undertaken under by an experienced wildlife handler. Any fauna found are to be relocated on site. WIRES are to be contacted in the case of any injured fauna.

Environmental Matters

14 D007 - Cut and fill of land requiring Validation Certificate –limited to footprint

Cut and fill operations on the property are only permitted in conjunction with the building works as detailed on the approved plans and specifications, and shall not extend more than 2 metres past the defined building footprint.

Before any fill material is imported to site, a validation certificate issued by an appropriately qualified person is to be provided to the Principal Certifying Authority. The validation certificate must demonstrate that the fill material is free from contaminants and weeds, that it is suitable for its intended purpose and land use, and that it will not pose an unacceptable risk to human health or the environment.

If Penrith City Council is not the Principal Certifying Authority, a copy of the validation certificate is to be submitted to Council for their reference.

{Note: Penrith Contaminated Land Development Control Plan defines an appropriately qualified person as “a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, eco-toxicology, sampling and analytical procedures, risk evaluation and remediation technologies. In addition, the person will be required to have appropriate professional indemnity and public risk insurance.”}

15 D Special - No clearing of vegetation

No native trees or other vegetation (including shrubs and other understorey vegetation) are to be removed, ringbarked, cut, topped, lopped, slashed or wilfully destroyed (other than those shown on the approved plan) without the prior consent of Penrith City Council and in accordance with Council's Tree Preservation Order and Policy.

16 D special - tree protection drip line

No fill, machinery, or materials are to be placed or stored within the drip line of any tree that is to be retained. All trees that are required to be retained as part of the development are to be protected in accordance with the minimum tree protection standards as outlined in Australian Standard AS 4970-2009 'Protection of trees on development sites'.

BCA Issues

17 E001 - BCA compliance

All aspects of the building design shall comply with the applicable performance requirements of the Building Code of Australia so as to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the on-going benefit of the community. Compliance with the performance requirements can only be achieved by:

(a) complying with the deemed to satisfy provisions, or

(b) formulating an alternative solution which:

- complies with the performance requirements, or
 - is shown to be at least equivalent to the deemed to satisfy provision, or
- (c) a combination of (a) and (b).

Construction

18 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.

19 H009 - Cut / fill details (amended from Council adopted version)

Cut and fill is limited to a maximum of 1 metre, in accordance with Penrith Residential Construction Works Development Control Plan.

20 H030 – Roof finishes (rural property)

The roof of the structure is to be a dull, non-reflective surface and colour. The external finishes of the (development) is to compliment and blend with the established development on the subject lot.

21 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

22 [K041 - Infrastructure Bond](#)

An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Penrith City Council's Public Infrastructure Assets. The bond is to be lodged with Penrith City Council prior to commencement of any works on site or prior to the issue of any Construction Certificate, whichever occurs first. The bond and applicable fees are in accordance with Council's adopted Fees and Charges.

An application form together with an information sheet and conditions are available on Council's website.

Contact Penrith City Council's City Works Department on (02) 4732 7777 or visit Penrith City Council's website for more information.

23 [K209 - Stormwater Discharge - Minor Development](#)

Stormwater drainage from the proposed shed shall be discharged to a level spreader system. The stormwater drainage system shall be designed in accordance with Penrith City Council's Stormwater Drainage Specification for Building Developments clause 5.3, including provision of a rainwater tank. The design shall ensure that the development has 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 Certifier.

24 [K Special - Stormwater](#)

Stormwater from the proposed development shall not be directed toward, nor inundate the existing aerated wastewater treatment system or associated effluent disposal area.

Payment of Fees

25 [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

26 [Q01F - Notice of Commencement & Appointment of PCA2 \(use for Fast Light only\)](#)

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

- (a) 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
- (b) 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.

27 [Q05F - Occupation Certificate for Class10](#)

An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and prior to the occupation/use of the shed.

The Certificate shall not be issued if any conditions of this consent, but not the conditions relating to the operation of the development, are outstanding.

A copy of the Occupation Certificate and all necessary documentation supporting the issue of the Certificate is to be submitted to Penrith City Council, if Council is not the Principal Certifying Authority.

Appendix - Development Control Plan Compliance

Unless specifically stated, the controls for farm buildings also apply to all sheds and outbuildings ancillary to any permiss use of rural land (specific to the relevant zone), whether or not that use is considered an agricultural use.

	Standards	Proposal	Compliance
Front setback	15m	Behind existing dwelling	Yes
Side setback	5m	17.5m	Yes
Maximum accumulative building footprint of all farm buildings	200m ²	150m ²	Yes
Minimum building separation	10m to a dwelling located on the same allotment	Greater than 10m	Yes
	20m to a dwelling located on an adjacent allotment	Greater than 20m	Yes
Height	8m	4.572m	Yes
Maximum external wall height	5m	3.6m	Yes
Maximum external wall length	15m	15m	Yes
Roof pitch	minimum - 15° maximum - 25°	11°	No - The shed is sited behind the proposed dwelling and is unlikely to result in any negative impacts on adjoining or surrounding properties. The lesser roof pitch does not undermine any established character traits of the local built form and ensures that suitable roof drainage is still provided for. Therefore, the variation of the roof pitch is also considered acceptable in this instance.

Total cumulative ground floor footprint	600m2	Total: 365m2 Dwelling = 142.5 m2 + Dual Occ = 72m2 + Shed = 150 m ²	Yes
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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
Environmental - Biodiversity	No objections - subject to conditions