

# PENRITH CITY COUNCIL

## MAJOR ASSESSMENT REPORT

<b>Application number:</b>	DA16/1154
<b>Proposed development:</b>	Boundary Adjustment to create 3 Super Lots
<b>Property address:</b>	117 - 127 OConnell Street, CADDENS NSW 2747 129 - 141 OConnell Street, CADDENS NSW 2747 143 - 159 OConnell Street, CADDENS NSW 2747 185 Caddens Road, CADDENS NSW 2747 187 Caddens Road, CADDENS NSW 2747 189 Caddens Road, CADDENS NSW 2747 207 Caddens Road, CADDENS NSW 2747
<b>Property description:</b>	Lot 12 DP 522660 Lot 51 DP 1189505 Lot 101 DP 564332 Lot 1 DP 515678 Lot 2 DP 502333 Lot 6 DP 502333 Lot 755 DP 1180111 Lot 11 DP 522660
<b>Date received:</b>	1 November 2016
<b>Assessing officer</b>	Gannon Cuneo
<b>Zoning:</b>	Zone R1 General Residential - LEP 2010 RE1 Public Recreation - LEP 2010
<b>Class of building:</b>	N/A
<b>Recommendations:</b>	Approve

### Executive Summary

Council is in receipt of a development application for a boundary adjustment between various sites bounded by Caddens Road to the south and OConnell Street to the north in 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 proposed boundary adjustment is the second stage in a two stage boundary adjustment to create a number of super lots for further development, subject to subsequent development applications being lodged with Council. The proposed boundary adjustment will create super lots 4, 5 and 6 to allow for the future staged subdivision of each lot respectively. The existing and proposed lots are addressed in the proposed development section of this report.

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

### **Properties of the site**

The subject site is currently occupied by a single dwelling and is predominantly characterised as grassland with remnant vegetation. The subject site comprises the following properties:

- Lot 1 which is an unregistered lot and has been created from a boundary adjustment through DA16/1155;
- Lot 4 which is an unregistered lot and has been created from a boundary adjustment through DA16/1155;
- Lot 5 which is an unregistered lot and has been created from a boundary adjustment through DA16/1155;
- Lot 6 which is an unregistered lot and has been created from a boundary adjustment through DA16/1155;
- Lot 2 in DP 502333 which is known as 189 Caddens Road, Caddens;
- Lot 6 in DP 502333 which is known as 189 Caddens Road, Caddens;
- Lot 1 in DP 515678 which is known as 187 Caddens Road, Caddens;
- Lot 101 in DP 564332 which is known as 185 Caddens Road, Caddens;
- Lot 11 in DP 522660 which is known as 117-127 OConnell Street, Caddens; and
- Lot 12 in DP 522660 which is known as 129-141 OConnell Street, Caddens.

The topography of the subject site varies from 73 at the south eastern corner of Lot 1 in DP 515678 to 44.5 at the north eastern corner of unregistered Lot 5 adjoining OConnell Street. The site therefore has a slope from the proposed 'Hilltop park' site in various directions. The surrounding area is characterised by OConnell Street and University of Western Sydney to the north, State Archives, vacant land and Claremont Meadows to the east, existing rural residential development, a market garden 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 proposed Lot 5. This easement is proposed to be relinquished with the proposed boundary adjustment. The location of the easement on the subject site is identified as being the location for a future detention basin in accordance with Caddens Release Area Structure Plan in Chapter E1 of Penrith DCP 2014. The subject site is not identified as being affected by mainstream flooding, however the north eastern corner of the subject site and western aspect of proposed Lot 4 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 2 in DP 502333 - No previous consents issued for the site;
- Lot 6 in DP 502333 - No previous consents issued for the site;
- Lot 1 in DP 515678 - No previous consents issued for the site;
- Lot 101 in DP 564332 -
  - DA11/0796 - Deferred Consent for Subdivision of 3 Existing Lots into 125 Residential Lots, 1 Public Reserve Lot and 5 Residue Lots, construction of drainage works including two detention basins and roadworks;
  - DA11/0796.01 - Deferred Consent for Section 95A Application – Extension of Deferred Commencement Consent Period;
  - DA11/0796.04 - Consent Approved for Section 96(2) to modify Schedule 1 of the Deferred Commencement and the consent expiry date;
  - DA11/0796.05 - Deferred Consent for S96(1A) Proposed modification to subdivision of 3 Existing Lots into 125 Residential Lots, 1 Public Reserve Lot and 5 Residue Lots, construction of drainage works including two detention basins and roadworks;
  - DA11/0796.06 - Consent Approved for Subdivision of 3 Existing Lots into 125 Residential Lots, 1 Public Reserve Lot and 5 Residue Lots, construction of drainage works including two detention basins and roadworks; and
  - DA11/0796.07 - Consent Approved for Section 96 Modification to the Approved (Deferred Commencement) Subdivision of 3 x Existing Lots into 125 x Residential Lots, 1 x Public Reserve Lot, 5 x Residue Lots and Associated Works.
- Lot 11 in DP 522660 -
  - DA11/0796 - Deferred Consent for Subdivision of 3 Existing Lots into 125 Residential Lots, 1 Public Reserve Lot and 5 Residue Lots, construction of drainage works including two detention basins and roadworks; and
  - DA11/0796.04 - Consent Approved for Section 96(2) to modify Schedule 1 of the Deferred

- Lot 12 in DP 52260 -
  - DA11/0796 - Deferred Consent for Subdivision of 3 Existing Lots into 125 Residential Lots, 1 Public Reserve Lot and 5 Residue Lots, construction of drainage works including two detention basins and roadworks;
  - DA11/0796.01 - Deferred Consent for Section 95A Application – Extension of Deferred Commencement Consent Period;
  - DA11/0796.04 - Consent Approved for Section 96(2) to modify Schedule 1 of the Deferred Commencement and the consent expiry date;
  - DA11/0796.05 - Deferred Consent for S96(1A) Proposed modification to subdivision of 3 Existing Lots into 125 Residential Lots, 1 Public Reserve Lot and 5 Residue Lots, construction of drainage works including two detention basins and roadworks;
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  - DA11/0796.07 - Consent Approved for Section 96 Modification to the Approved (Deferred Commencement) Subdivision of 3 x Existing Lots into 125 x Residential Lots, 1 x Public Reserve Lot, 5 x Residue Lots and Associated Works.

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 second stage 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 1 which is 1.017ha in area and is an unregistered lot. The lot has been created from a boundary adjustment through DA16/1155;
- Lot 4 which is 634.9m<sup>2</sup> in area and is an unregistered lot. The lot has been created from a boundary adjustment through DA16/1155;
- Lot 5 which is 3.241ha in area and is an unregistered lot. The lot has been created from a boundary adjustment through DA16/1155;
- Lot 6 which is 237m<sup>2</sup> in area and is an unregistered lot. The lot has been created from a boundary adjustment through DA16/1155;
- Lot 2 in DP 502333 which is 1.8879ha in area;
- Lot 6 in DP 502333 which is 1454m<sup>2</sup> in area;
- Lot 1 in DP 515678 which is 2.298ha in area;
- Lot 101 in DP 564332 which is 3.41ha in area;
- Lot 11 in DP 522660 which is 2.688ha in area; and
- Lot 12 in DP 522660 which is 2.866ha in area.

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

- Lot 4 being 7.771 hectares in area;
- Lot 5 being 4.822 hectares in area; and
- Lot 6 being 4.822 hectares in area.

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 second 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 development application is for a boundary adjustment only and no physical works are proposed.

## 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 3 super lots in addition to the 2 super lots created under DA16/1155. 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'. Future development of the super lots created through DA16/1154 and DA16/1155 will be subject to future development applications being lodged with Council and comments being provided from NSW Rural Fire Service if and where required.

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 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 and RE1 Public Recreation 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; and
- 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.

The objectives of the RE1 zone are:

- To enable land to be used for public open space or recreational purposes;
- To provide a range of recreational settings and activities and compatible land uses;
- To protect and enhance the natural environment for recreational purposes;
- To ensure that development is secondary and complementary to the use of land as public open space, and enhances public use, and access to, the open space; and
- To provide land for the development of services and facilities by public authorities for the benefit of the community.

The objectives of the RE1 zone outlined above aim to provide areas of passive, recreational open space for members of the public. The area identified as being zoned RE1 is located within the proposed Caddens Release Area. The proposed boundary adjustment has considered the zoning of the subject site, with the area zoned RE1 to be developed subject to future development applications being lodged. Based on the proposed development and RE1 zone, the proposed boundary adjustment does not compromise the objectives of the zone and will be addressed in greater detail through subsequent development applications.

#### **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 central and southern 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 3 super lots being 1.771ha (Lot 4), 4.822ha (Lot 5) and 4.822ha (Lot 6). The lots to be created are in addition to the 2 super lots created under DA16/1155, being 4.6ha (Lot 2) and 4.8ha (Lot 3) in area. The proposed lots to be created include the 4 residue lots that were also created through DA16/1155. All lots created through this development application on the subject site are above the minimum lot size required and 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 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 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 various lots to create 3 super lots. The boundary adjustment includes 4 residue lots which were created under DA16/1155 and 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 DA16/1154 for Boundary Adjustment at the following properties be approved subject to the attached conditions:
  - 117 - 127 OConnell Street CADDENS NSW 2747
  - 129 - 141 OConnell Street CADDENS NSW 2747
  - 143 - 159 OConnell Street CADDENS NSW 2747
  - 185 Caddens Road CADDENS NSW 2747
  - 187 Caddens Road CADDENS NSW 2747
  - 189 Caddens Road CADDENS NSW 2747
  - 207 Caddens Road CADDENS NSW 2747



## General

### 1 A001

The development must be implemented substantially in accordance with the stamped approved Plan of Subdivision (Reference number 20467-C3, Prepared by Vince Morgan Surveyors, Dated 17.01.17), 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 4, 5 and 6 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.

## Utility Services

### 5 G002 - Section 73 (not for

A Section 73 Compliance Certificate under the Sydney Water Act 1994 shall be obtained from Sydney Water. The application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's website at [www.sydneywater.com.au](http://www.sydneywater.com.au) then the "e-developer" icon, or telephone 13 20 92.

The Section 73 Compliance Certificate must be submitted to the Principal Certifying Authority **prior to the issue of a Subdivision Certificate.**

## Subdivision

### 6 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

### 7 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 three 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 residential 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.