

PENRITH CITY COUNCIL

FAST TRACK ASSESSMENT REPORT

Application number:	DA13/0957
Proposed development:	Single Storey Dwelling
Property address:	35 Cabarita Way, JORDAN SPRINGS NSW 2747
Property description:	Lot 2210 DP 1168992
Date received:	29 August 2013
Assessing officer	Wendy Butler
Zoning:	URBAN ZONE (SREP30)
Class of building:	Class 1a
Recommendations:	Approve

Executive Summary

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

Site & Surrounds

The subject site is situated on the northern side of Cabarita Way Jordan Springs. It is 468.5m² in area and is orientated in a southern direction.

An inspection of the site was undertaken on 23 September 2013 and the site is currently vacant.

The surrounding area is characterised by residential development.

Proposal

The proposed development involves:

- Construction of a 4 bedroom single storey dwelling with a double lock up garage, landscaping and associated drainage works

Plans that apply

- Penrith Local Environmental Plan No.258 - Consent for dwelling houses and other development
- Development Control Plan 2006
- Western Precinct Plan
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River
- Sydney Regional Environmental Plan No.30 - St Marys

Planning Assessment

- **Section 79BA - Bushfire prone land assessment**

The development has been assessed in accordance with the matters for consideration under Section 79BA (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 lot is identified as bushfire prone land. Due to extensive clearing of land the lot is more than 100 metres from bushfire affected vegetation. No additional construction requirements are necessary.

- **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.

- (a) The likely impacts of the development**

- (i) Context and Setting (environmental impacts and impacts on built environment)**

The proposal is consistent with the bulk, scale, colour and design of other development in the locality.

The development will have only minor impact on the amenity of the area and the streetscape.

The development is compatible with the surrounding and adjacent land uses in the Jordan Springs residential estate.

It is considered the development will have no impact on the amenity of the area in terms of Sunlight Access (overshadowing) as it is a single storey dwelling nor any visual and acoustic privacy / views or vistas.

The development will have no impacts on natural environment.

- (ii) Access and transport**

The development will have minimal impact on the local road system. The proposed access arrangements and car parking on site will be adequate for the development. The existing road system is adequate for the development.

- (iii) Heritage**

The property is not subject to any Heritage Order or identified as a heritage item under a planning instrument.

- (iv) Soil**

The proposed development will have no impact on soil erosion and sedimentation.

Adequate sedimentation and erosion controls are proposed as part of the development.

- (v) Natural and Technological Hazards**

The development is not subject to flooding, subsidence or slip.

- (vi) Site Design**

The proposed development is sensitive to environmental conditions and site attributes.

The proposed development safeguards the health and safety of the occupants.

- (c) The suitability of the site for development**

A site inspection was carried out and the proposed development fits the locality.

The site attributes are conducive to the development.

(d) Compliance with the BCA

The proposed development will comply with the provisions of the Building Code of Australia. The proposed development is supported as it is demonstrated that it will comply with the performance requirements of the BCA.

(e) Any submissions made in accordance with the EPA Act and Regs

The application did not require to be publicly notified.

(f) The public interest

The proposed development will not generate any significant issues of public interest.

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	Complies
Chapter 2.3 - Engineering works	Complies
Chapter 2.4 - Erosion and sediment control	Complies
Chapter 2.5 - Heritage management	N/A
Chapter 2.6 - Landscape	Complies
Chapter 2.7 - Notification and advertising	N/A
Chapter 2.8 - Significant trees and gardens	N/A
Chapter 2.9 - Waste planning	Complies
Chapter 2.10 - Flood liable land	N/A
Chapter 2.11 - Car parking	Complies
Chapter 2.12 - On-site sewage management	N/A
Chapter 2.13 - Tree preservation	Complies

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

Penrith Local Environmental Plan No.258 - Consent for dwelling houses and other development

Provision	Compliance
All Clauses - Consent for dwelling houses and other development	Complies

Consent is required for dwelling houses and consideration has been given to this policy and the objectives have been satisfied.

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.

Sydney Regional Environmental Plan No.30 - St Marys

As assessment has been undertaken of the application against relevant criteria with Sydney Regional Environmental Plan No 30—St Marys and the application is satisfactory.

(a) The provisions of any Sydney Regional Environmental Plan (SREP 30) – St Marys

The subject site is zoned Urban under section 36 of this SREP and the proposed development is permissible in the zone subject to the followings:

Objectives	Satisfies	Does not Satisfy (See Below)
buildings and works within the zone are primarily used for residential purposes and associated facilities	Y	
limit the range and scale of non-residential uses to ensure that they are compatible with residential amenity and primarily serve local residents	Y	
provide for local retailing and related services, including supermarkets, which will complement established centres in the Blacktown City and Penrith City local government areas and not have a significant adverse effect on the viability of established retail centres	NA	
provide for medium density residential development in locations which provide optimum access to employment, public transport and services, while ensuring residential amenity	NA	
promote home based industries where such activities are unlikely to adversely affect the living environment of neighbours	NA	
ensure that development adjacent to the Regional Park zone does not have a negative impact on biodiversity or conservation within that zone	NA	

Also, consideration must be given to following sections or SREP:

51 Salinity and highly erodible soils

(1) The consent authority must not grant consent to the development of any land unless it has considered:

(a) a detailed soil assessment which includes a finding of whether or not the land is at risk from salinity or contains soils which are highly erodible, and

(b) whether the proposed development incorporates appropriate building materials, techniques and land management measures to mitigate adverse environmental and economic impacts.

(2) The consent authority must not consent to the development of land so found to be at risk or affected, unless it is satisfied that appropriate measures have been incorporated or are able to mitigate the potential impacts.

(b) The provisions of St Marys Western Precinct

The proposed development complies with the provisions of St Marys Western Precinct

(c) Compliance with 88(b) covenants on the land

The lot of the proposed development is both benefitted and burdened by an access and maintenance easement. The proposal shall be for residential purposes and generally complies with other 88(b) covenants on the land.

(d) Developers guidelines and approval

Developers approval letter and stamped plans have been accompanied as part of the application.

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

Development Control Plan 2006

Provision	Compliance
Chapter 2.1 - Contaminated land	N/A
Chapter 2.2 - Crime prevention through environmental design	N/A
Chapter 2.3 - Engineering works	N/A
Chapter 2.4 - Erosion and sediment control	Complies
Chapter 2.5 - Heritage management	N/A
Chapter 2.6 - Landscape	Complies
Chapter 2.7 - Notification and advertising	N/A
Chapter 2.8 - Significant trees and gardens	N/A
Chapter 2.9 - Waste planning	Complies
Chapter 2.10 - Flood liable land	N/A
Chapter 2.11 - Car parking	Complies
Chapter 2.12 - On-site sewage management	N/A
Chapter 2.13 - Tree preservation	N/A

Western Precinct Plan

Provision	Compliance
Western Precinct Plan	Complies

Referrals

The application was referred to the following stakeholders and their comments have formed part of the assessment:

Referral Body	Comments Received
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Conclusion

In assessing this application against the relevant environmental planning policies, being Sydney Regional Environment Plan 30 (SREP 30) St Marys and St Marys Precinct Plan the proposal satisfies the aims, objectives and provisions of these policies.

In its current form, the proposal will have a positive impact on the surrounding character of the area as a residential subdivision.

Support for this application would set a favourable standard given the proposal complies with all applicable policies.

The proposed design is site responsive, complies with key development standards and is in the public interest.

The site is suitable for the proposed development 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

1. That [DA13/0957 for the erection of a single dwelling at Lot 2210 35 Cabarita Way, Jordan Springs be approved subject to the attached conditions (Development Assessment Report Part B).

CONDITIONS

General

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

The development must be implemented substantially in accordance with the plans numbered 0040 INSP 2013 HU drawn by Abitare Studio and dated 26/06/2013 and stamped approved by Council, the application form, the BASIX Certificate 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 \(Always apply to building works\)](#)

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

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

Environmental Matters

5 [D001 - Implement approved sediment& erosion control measures](#)

Erosion and sediment control measures shall be installed **prior to the commencement of works on site** including approved clearing of site vegetation. The erosion and sediment control measures are to be maintained in accordance with the approved erosion and sediment control plan(s) for the development and the Department of Housing's "Managing Urban Stormwater: Soils and Construction" 2004.

(Note: To obtain a copy of the publication, you should contact Landcom on (02) 98418600).

The approved sediment and erosion control measures are to be installed **prior to and maintained throughout the construction phase of the development until the landscaping, driveway and on-site parking areas have been completed for the development and the land, that was subject to the works, have been stabilised and grass cover established.** These measures shall ensure that mud and soil from vehicular movements to and from the site does not occur during the construction of the development.

6 [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."}

7 [D009 - Covering of waste storage area](#)

All waste materials stored on-site are to be contained within a designated area such as a waste bay or bin to ensure that no waste materials are allowed to enter the stormwater system or neighbouring properties. The designated waste storage area shall provide at least two waste bays / bins so as to allow for the separation of wastes, and are to be fully enclosed when the site is unattended.

8 D010 – Appropriate disposal of excavated or other waste

All excavated material and other wastes generated as a result of the development are to be re-used, recycled or disposed of in accordance with the approved waste management plan.

Waste materials not specified in the approved waste management plan are to be disposed of at a lawful waste management facility. Where the disposal location or waste materials have not been identified in the waste management plan, details shall be provided to the Certifying Authority as part of the waste management documentation accompanying the Construction Certificate application.

All receipts and supporting documentation must be retained in order to verify lawful disposal of materials and are to be made available to Penrith City Council on request.

BCA Issues

9 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).

Health Matters and OSSM installations

10 F006 - Water tank & nuisance

The rainwater tank must be maintained so as not to create a nuisance and it must be protected against mosquito infestation.

Construction

11 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.

12 H002 - All forms of construction

Prior to the commencement of construction works:

(a) Toilet facilities at or in the vicinity of the work site shall be provided at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be:

- a standard flushing toilet connected to a public sewer, or
- if that is not practicable, an accredited sewage management facility approved by the council, or
- alternatively, any other sewage management facility approved by council.

(b) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with the appropriate professional standards. All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

(c) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:

- must preserve and protect the building from damage, and
- if necessary, must underpin and support the building in an approved manner, and
- must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished. The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land, (includes a public road and any other public place).

13 H009 - Cut / fill details

Details of all excavations for the proposed building works, indicating the maximum cut and fill levels shall be provided for consideration and approval prior to the issue of a Construction Certificate. Cut and fill is limited to a maximum of 1 metre, in accordance with Penrith Residential Construction Works Development Control Plan.

14 H022 - Survey (as amended)

The building shall be set out by a registered surveyor. A Survey Certificate shall be undertaken and submitted to the Principal Certifying Authority when the building is constructed.

15 H030 – Roof finishes (rural property)

The external finishes of the dwelling are to be in accordance with the approved colour schedule.

16 **H036 - Rainwater Tank (Also impose H037, H038, H039, G005 & Q010)**

The rainwater tank(s) is to be:

- erected on a self-supporting base in the approved location on the property in accordance with the stamped-approved site plans for the development,
- structurally sound and constructed in accordance with AS/NZS 3500 1.2- 1998: National Plumbing and Drainage - Water Supply - Acceptable Solutions,
- fully enclosed and all openings sealed to prevent access by mosquitoes,
- fitted with a first flush device,
- fitted with a trickle system to top up from mains water,
- provided with an air gap, and
- installed by a licensed plumber in accordance with Sydney Water's "Plumbing requirements Information for rainwater tank suppliers and plumbers April 2003" and the NSW Code of Practice: Plumbing and Drainage.

Additionally, the following are to be provided:

- A back flow prevention device shall be provided at the water meter in accordance with Sydney Water requirements.
- In the event of a power failure, a back up supply of mains water shall be provided to at least one toilet in the dwelling.
- The rainwater tank(s) and associated piping is to be labelled 'Rainwater - Not for Drinking' in accordance with Sydney Water requirements.
- The rainwater tank and pipework is to be painted in colours matching the external finishes of the dwelling and is to be of non-reflective finish.
- The overflow for the rainwater tank is to be connected into the existing stormwater disposal system on the site.

Before a rainwater tank(s) can be used, a certificate or suitable document is to be submitted to the Principal Certifying Authority stating that the rainwater tank has been installed in accordance with:

- the manufacturer's specifications, and
- Sydney Water and NSW Health requirements

This certificate or documentation is to be provided by the licensed plumber who installed the rainwater tank on the property, and is to be submitted prior to the issue of the Occupation Certificate.

17 **H037 - Safe supply of water from catchment areas (Also impose H036, H038 & H039)**

The catchment area (for the rainwater tank) includes the parts of the roof of the dwelling(s) from which water is collected and includes gutters. To ensure a safe supply of water:

- roof catchment areas must be kept clear of overhanging vegetation,
- gutters must have sufficient fall to downpipes to prevent pooling of water,
- overflow, discharge from bleed off pipes from roof mounted appliances such as airconditioners, hot water services and solar heaters must not discharge into the rainwater catchment area,
- for roofs containing lead based, tar based or asbestos material the tank supply must not be connected to drinking, bathing and gardening tap water outlets,
- appropriate measures must be installed to prevent foreign materials from contaminating the water which enters the rainwater tank.

18 **H038 - Connection of rainwater tank supply (Also impose H036, H037 & H039)**

The rainwater tank supply must not be connected to drinking and bathing water tap outlets.

19 **H039 - Rainwater tank pumps (Also impose H036, H037 & H038)**

The pump must not exceed 5dBA above ambient background noise level at the nearest residential property boundary. The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

20 **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.

21 **H special Salinity**

A detailed soil assessment demonstrating the land is not at risk from salinity is to be submitted to Council. Alternatively, the following measures must be incorporated as part of the construction to minimise the affect of salinity:

- a) The damp proof membrane must be extended to the outside face of the external edge beam up to the finished ground level. (*as per clause 3.2.2.6 and figure 3.2.2.3 of the BCA*).
- b) Class 32 Mpa (N32) concrete must be used.
- c) Exposure class masonry units must be used below the damp proof course including for strip footings.

Engineering

22 **K016 - Stormwater**

Roofwater drains shall be discharged into the street gutter or common line.

23 **K026 - Stabilised access**

All land required for vehicular access within the site is to be stabilised.

24 **K041**

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 (\$500 for residential up to \$400000, \$1000 for development upto \$400000, min. \$2000 (or 0.5% of value) for development over \$400000) payable for the subject development.

The bond is refundable once a final inspection has been carried out by Council's 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 website to obtain the form and request for final inspection.

25 **K202 - Roads Act (Minor Roadworks)**

Prior to the issue of a Construction Certificate a Roads Act application, including payment of application and inspection fees shall be lodged with Penrith City Council, as the Roads Authority, for the following works:

- a) Provision of a vehicular crossing/s.
- b) Opening the road reserve for the provision of services including stormwater.
- c) Placing of hoardings, containers, waste skips, etc. in the road reserve.

All works within the road reserve shall be carried out in accordance with Penrith City Council's Design Guidelines and Construction Specification for Civil Works.

Penrith City Council (being the Roads Authority under the Roads Act) shall approve the works completed on or over the road reserve. Contact Council's **City Works Department** on (02) 4732 7777 to arrange an inspection of the works (and payment of inspection fees, if required).

26 **K501 Roads Authority clearance**

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall ensure that all works within the road reserve have been inspected and approved by Penrith City Council.

Landscaping

27 **L001 - General landscaping (applies to most building works)**

All landscape works are to be constructed in accordance with the stamped approved plan.

Landscaping shall be maintained:

- in accordance with the approved plan, and
- in a healthy state, and
- in perpetuity by the existing or future owners and occupiers of the property.

If any of the vegetation comprising that landscaping dies or is removed, it is to be replaced with vegetation of the same species and, to the greatest extent practicable, the same maturity, as the vegetation which died or was removed.

28 **L008 - Tree Preservation Order**

No trees are to be removed, ringbarked, cut, topped or lopped or wilfully destroyed other than those within 3 metres of the proposed building footprint or as shown on the approved plans without the prior consent of Penrith City Council and in accordance with Council's Tree Preservation Order and Policy.

Payment of Fees

29 **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

30 **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:

- 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
- 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.

31 **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 of the dwelling.

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.