

# PENRITH CITY COUNCIL

## MAJOR ASSESSMENT REPORT

<b>Application number:</b>	DA15/1105
<b>Proposed development:</b>	Two (2) x Lot Torrens Title Subdivision
<b>Property address:</b>	262 - 268 Caddens Road, CLAREMONT MEADOWS NSW 2747
<b>Property description:</b>	Lot 4 DP 27107
<b>Date received:</b>	21 September 2015
<b>Assessing officer</b>	Belinda Borg
<b>Zoning:</b>	E2 Environmental Conservation - LEP 2010 Zone R2 Low Density Residential - LEP 2010
<b>Class of building:</b>	N/A
<b>Recommendations:</b>	Approve

### Executive Summary

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Council is in receipt of a development application for the demolition of the existing buildings and subdivision into 2 lots being 2 residue allotments for conservation corridor dedication.

The development site is partly zoned R2 Low Density Residential and partly zoned E2 Environmental Conservation under Penrith Local Environmental Plan 2010.

The subdivision of land and associated roadworks are permissible, with Council consent within the R2 Low Density Zone. However the subdivision of land within the E2 Environmental Conservation zone is prohibited development.

The subdivision of land follows to zone boundary therefore it is considered that the proposed development is not further subdividing the E2 zone land, rather the subdivision is facilitating the transfer of land to Council's ownership.

The Rural Fire Service issued their Bush Fire Safety Authority on 13 October 2015 subject to conditions.

The application has been assessed with respect to the EP&A Act and other relevant Environmental Planning Instruments applicable to the subject site. It is considered that the proposal conforms to the relevant provisions of the various Environmental Planning Instruments and will not result in any adverse impact on the natural and built environment.

### Site & Surrounds

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The subject site is situated on the southern side of Caddens Road approximately 720m to the west of the Gipps Street/ Kent Street intersection, having a land area of 2.033 hectares and currently containing a single dwelling, detached sheds and vegetation.

The surrounding area is characterised by residential development and larger rural lots for future development as residential lots.

## Proposal

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The proposed development includes the following aspects:

- Demolish and remove the residence and outbuildings
- Subdivision to create two lots.

The purpose of the subdivision was to facilitate the sale of the E2 zone land to Penrith Council, which will form part of future parkland.

Proposed Lot 41 will have a land area of 6763m<sup>2</sup> and proposed Lot 42 will have a land area of 1.347 hectares. Proposed Lot 41 will be retained as a residue lot. Further subdivision will be subject to a separate Development Application.

With the exception of the demolition works, no other works are proposed as a part of the Development Application.

## Plans that apply

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- Development Control Plan 2010
- State Environmental Planning Policy No 55—Remediation of Land
- 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 having regard to those matters the following issues have been identified for further consideration.

### • Section 91- Integrated development

Section 91 of the EP&A Act outlines the types of developments deemed to be defined as “Integrated Development”. As this development requires concurrence from the NSW Rural Fire Service, Office of Water in accordance with this section of the Act, the following comments are provided:

*NSW Rural Fires Services (RFS)*

According to Section 91 of the EP&A Act, the proposed subdivision is an integrated development as it requires authorisation under section 100B of the Rural Fires Act 1997 in respect of bush fire safety for the subdivision of land that could lawfully be used for residential or rural residential purposes, or development of land for special fire protection purposes.

RFS issued a Bush Fire Safety Authority on 13 October 2015 raising no objection to the proposal subject to conditions.

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

## **State Environmental Planning Policy No 55—Remediation of Land**

Clause 7 of State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55) provides the following key considerations to be addressed in the assessment of any Development Application.

- (1) *A consent authority must not consent to the carrying out of any development on land unless:*
  - (a) *it has considered whether the land is contaminated, and*
  - (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
  - (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*
  
- (2) *Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.*

The preliminary assessment of the Development Application revealed that proposed Lot 41 requires the preparation of a Stage 1 Preliminary Site Investigation, due to the change of use from in land use from a rural/rural residential use to a residential use. A Stage 1 Preliminary Site Investigation was not required for Lot 42, as the contains remnant vegetation.

Discussions have been held with the applicant regarding the timing of the Stage 1 Preliminary Site Investigation as the subdivision is proposed to support the transfer of land zoned E2 Environmental Conservation to Council, rather than the subdivision supporting the use of the land as residential.

A restriction to user will be placed on the title detailing Lot 41 is to be retained as a residue lot and a Stage 1 Preliminary Site Investigation will be required to support any further subdivision of the land.

For the above reasons, Council is satisfied that the remediation of land will be undertaken prior to the use of the land for residential purposes and is satisfied of compliance with SEPP 55.

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

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

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

### Development Control Plan 2010

Provision	Compliance
Part B - DCP Principles	Complies
Part C 1 - Site planning and design principles	Complies
Part C2 - Vegetation management	Complies
Part C3 - Water management	Complies
Part C4 - Land management	Complies
Part C5 - Waste management	Complies
Part C6 - Landscape design	Complies
Part C7 - Culture and heritage	N/A
Part C8 - Public domain	N/A
Part C9 - Advertising and signage	N/A
Part C10 - Transport, access and parking	Complies
Part C11 - Subdivision	Complies
Part C12 - Noise and vibration	Complies
Part C13 - Infrastructure and services	Complies
Part D2 - Residential development	Complies

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

The proposal is compatible with the surrounding and adjacent land uses and will have no major impact on the amenity of the area. The subdivision will have no impacts on the natural environment. Additionally, the development will not generate any significant social or economic impacts.

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

The application has demonstrated that the proposed development is suitable for the site. There are no significant natural or built environment constraints that would hinder the proposed development and appropriate measures can be employed to mitigate potential impacts.

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

#### Community Consultation

The development application was advertised and notified from 12 October 2015 to 26 October 2015, in accordance with Appendix F4 of Penrith Development Control Plan 2010. No submissions were received to the proposal.

#### 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
Environmental - Environmental management	No objections - subject to conditions

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

The proposed development is consistent with the objectives of the EP&A Act in so far as it promotes the co-ordinated, orderly, and economic use and development of the land. As a result Council can be satisfied that the development, subject to conditions is consistent with the public interest.

## **Conclusion**

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In assessing the application against the relevant instruments being Penrith Local Environmental Plan 2010 and Penrith Development Control Plan 2014, the proposal satisfies the requirements. With the inclusion of the recommended conditions, the proposed development is unlikely to have a negative impact on the surrounding environment, the site is suitable for the development proposed and is in the interest of the public.

## **Recommendation**

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1. That DA15/1105 for the demolition of the existing dwelling and Torrens Title Subdivision Comprising x 2 lots at 262 Caddens Road Claremont Meadows, be approved subject to the attached conditions (Development Assessment Report Part B).

# CONDITIONS

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## General

1 [A001](#)

The development must be implemented substantially in accordance with the following stamped approved plans, the application form and any supporting information issued by Penrith City Council, except as may be amended in red on the attached plans and by the following conditions.

Drawing Title	Plan No.	Issue	Prepared By	Date
Plan of Subdivision	19791P		Vince Morgan	27.7.2015
Statement of Environmental Effects	-	-	Cityscape Planning & Projects	August 2015

2 [A044 - Compliance with NSW Rural Fire Service conditions of consent](#)

The conditions imposed by the NSW Rural Fire Service in the Integrated Development consent and in the Bush Fire Safety authority for the said development are to be completed prior to the issue of an Occupation Certificate or in the case of subdivision, a Subdivision Certificate.

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

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

4 [A Special Condition 01 - Rural Fire Service](#)

The development is required to comply with the General Terms of Approval (GTA) dated 19 May 2015, issued by the NSW Rural Fire Service as outlined below:

- At the issue of subdivision certificate and in perpetuity the entire property of Lot 41 shall be managed as an inner protection area (IPA) as outlined within Section 4.1.3 and Appendix 5 of 'Planning for Bushfire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

## Demolition

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

The existing dwelling and ancillary structures are to be demolished as part of the approved work.

6 [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**.

7 [B003 - ASBESTOS](#)

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

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

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

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

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

#### 8 B004 - Dust

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

#### 9 B005 - Mud/Soil

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

#### 10 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.

## Environmental Matters

#### 11 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).

#### 12 D002 - Spraygrass

All land that has been disturbed by demolition works is to be spray grassed or similarly treated to establish a grass cover.

#### 13 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.

#### 14 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 areas 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.

## Utility Services

#### 15 G001 - Installation of services and Service Clearances (subdivision)

All services (water, sewer, electricity, telephone and gas) are to be installed within the proposed public roads before final inspection of the engineering works.

Prior to the release of the linen plan, the following service authority clearances shall be obtained:

- a Section 73 Compliance Certificate under the Sydney Water Act 1994 shall be obtained from Sydney Water. This is required prior to the issue of the Subdivision Certificate and
- a letter from Integral Energy stating that satisfactory arrangements can/ have been made for electricity supply to all proposed allotments in the subdivision, including any necessary easements; and
- a letter from an approved telecommunications service provider that satisfactory arrangements can/ have been made for underground telephone services to all proposed allotments in the subdivision, including any necessary easements.

These clearances are to be submitted to the Principal Certifying Authority.

## Construction

#### 16 [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 Subdivision Certificate has been issued for the development.

#### 17 [H006 - Submission of and implement waste management plan](#)

A completed waste management plan shall be submitted to Penrith City Council for consideration and approval. Council must approve the plan before works can commence on site.

The waste management plan shall be prepared in accordance with the Penrith Development Control Plan (2014), and shall address all waste materials likely to result from the proposed development, with details of the estimated waste volumes, onsite storage and management, proposed re-use of materials, designated waste contractors, recycling outlet and / or landfill site.

The approved waste management plan must be implemented on-site and adhered to throughout the demolition works, with supporting documentation / receipts retained in order to verify the recycling and disposal of materials in accordance with the approved plan.

#### 18 [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

#### 19 [K101 - Works at no cost to Council](#)

All roadwork, stormwater, associated civil works and dedications, required to effect the consented development shall be undertaken at no cost to Penrith City Council.

## Landscaping

#### 20 [L008 - Tree Preservation Order](#)

No trees are to be removed, ringbarked, cut, topped or lopped or wilfully destroyed (other than those within 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.

## Subdivision



21 **M001 - Prior to subdivision work (Applies to subdivision except strata)**

Work on the subdivision is not to commence until:

- a Construction Certificate has been issued,
- a Principal Certifying Authority has been appointed for the project, and
- any other matters prescribed in the development consent for the subdivision and the Environmental Planning and Assessment Act and Regulation have been complied with.

Penrith City Council is to be notified 48 hours prior to commencement of engineering works or clearing associated with the subdivision.

22 **M008 - Linen Plan**

Prior to the issue of a Subdivision Certificate, submission of the original Linen Plan and ten (10) copies shall be made.

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.

23 **M009 - 88B Instrument**

The linen plan of subdivision is to be supported by an 88B instrument creating a Restriction as to User or easement regarding the following:

- a) Stage 1 Preliminary Site Investigation will be required to support any further subdivision of Lot 41; and
- b) Residue Allotment - no development or building shall be allowed or be permitted to remain on Lot 41 unless satisfactory arrangements have been made with Penrith City Council for services (water, sewer, electricity and telephone) or any outstanding contributions to be paid.

Council shall be nominated as the only authority permitted to modify, vary or rescind such restriction as to user.

## **Certification**

24 **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.

## **Operation of OSSM**

25 **R113 - Decommission old system**

The contents of the existing septic tank are to be removed by a licensed waste contractor and deposited to an approved waste facility. The disconnected tank shall be removed, demolished or filled with clean soil and garden lime. Documentation of the collection and disposal of waste are to be retained and provided to Council on request.