

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA14/1511
Proposed development:	Torrens Title Subdivision x 5 Residential Lots
Property address:	35 Empire Circuit, PENRITH NSW 2750
Property description:	Lot 1197 DP 1171491
Date received:	28 November 2014
Assessing officer	Clare Aslanis
Zoning:	ZONE R1 GEN RES - PT 7 NTH PEN PCCLEP 2008
Class of building:	N/A
Recommendations:	Approve

Executive Summary

Council is in receipt of a development application for the subdivision of land x 5 Lots at the North Penrith site. The subject site is zoned R1 General Residential and the proposed subdivision is permissible with Council consent under Clause 16 of the Penrith City Centre Local Environmental Plan 2008.

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

Site & Surrounds

The North Penrith site is centrally located directly adjacent to Penrith Railway Station and immediately to the north of the Penrith City Centre. It is a strategic site, located within the Penrith Regional Centre as identified in the Metropolitan Plan 2036 and the North West Draft Subregional Strategy.

The greater locality is characterised by a mixutre of residential, industrial and recreational uses. Large industrial activities are located to the north on the opposite side of Coreen Avenue. New Industrial development is located immediately to the west side of the site with the residential suburb of Penrith located further to the east.

A Project Approval for the Stage 2D SSDA was approved by the Minister for Planning and Infrastructure's delegate on 28 June 2013, which created Lot 2389 and included bulk earthworks, remediation, roads and infrastructure that will service this proposed subdivision.

This part of the North Penrith site is vacant with medium density development and Smith's Paddock to the east and south of the subject site. However, the future development will consist of medium and high density development to the south and the east, while further to the south is the proposed North Penrith village centre. The site has a frontage to new roads within the North Penrith site including Walshaw Street and Empire Circuit.

Proposal

The proposed subdivision involves:

- subdivision of Lot 2389 to create 5 residential allotments.

Subsequent development applications will follow for dwellings on the proposed allotments.

Plans that apply

- Penrith Local Environmental Plan 2008 (City Centre)
- Development Control Plan 2006
- North Penrith Design Guidelines
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

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

Penrith Local Environmental Plan 2008 (City Centre)

Provision	Compliance
Clause 2 - Aims of the Plan	Complies
Clause 12 - Zoning of land to which this plan applies	N/A
Clause 13 - Zone objectives	N/A
Clause 15 - Additional permitted uses for particular land	N/A
Clause 16 - Subdivision consent requirements	Complies
Clause 17 - Temporary use of land	N/A
Clause 21 - Height of buildings	N/A
Clause 22 - Architectural roof features	N/A
Clause 23 - Sun Access	N/A
Clause 24 - Floor space ratio	N/A
Clause 25 - Minimum building street frontage	N/A
Clause 26 - Design Excellence	N/A
Clause 27 -Car parking	N/A
Clause 28 - Ground floor development within B3 and B4	N/A

Clause 29 - Building separation	N/A
Clause 30 - Ecologically sustainable development	N/A
Clause 31 - Serviced apartments	N/A
Clause 32 - Exceptions to development standards	N/A
Clause 33 - Land acquisition within certain zones	N/A
Clause 34 - Development on proposed classified roads	N/A
Clause 35 - Classification and reclassification of public land	N/A
Clause 36 - Community use of educational establishments	N/A
Clause 37 - Classified roads	N/A
Clause 38 - Development in proximity to a rail corridor	N/A
Clause 39 - Preservation of trees or vegetation	N/A
Clause 40 - Heritage conservation	N/A
Clause 41 - Bush fire hazard reduction	N/A
Clause 42 - Development for group homes	N/A
Clause 43 - Crown development and public utilities	N/A
Clause 44 - Location of sex services premises and restricted premises	N/A
Schedule 1 - Additional permitted uses	N/A
Clause 45 - Application of Part	Complies
Clause 46 - Interpretation	N/A
Clause 48 - Suspension of covenants, agreements and instruments	N/A
Clause 49 - Land use zones	Complies
Clause 50 - zone objectives and land use table	Complies
Clause 51 - Height of buildings	N/A
Clause 52 - Development near zone boundaries	N/A
Clause 53 - Architectural roof features	N/A
Clause 54 - Heritage Conservation	N/A
Clause 55 - Earthworks	N/A
Clause 56 - Savings provision relating to pending applications	N/A
Clause 47 - Certain planning instruments cease to apply to the land	N/A

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

Penrith Planning Proposal

The Stage 2 Penrith Planning Proposal was placed on public exhibition on 13 May 2014. The relevant sections of the Planning Proposal have been reviewed and there are no proposed changes to the controls relating to development within North Penrith. The associated LEP will take effect on 25 February 2015.

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	N/A
Chapter 2.7 - Notification and advertising	Complies
Chapter 2.8 - Significant trees and gardens	N/A
Chapter 2.9 - Waste planning	N/A
Chapter 2.10 - Flood liable land	N/A
Chapter 2.11 - Car parking	N/A
Chapter 2.12 - On-site sewage management	N/A
Chapter 2.13 - Tree preservation	N/A
Chapter 4.7 - Guidelines for subdivision	Complies

North Penrith Design Guidelines

Provision	Compliance
North Penrith Design Guidelines	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.

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 site attributes are conducive to the development proposal. The proposal has been designed in a manner consistent with the future character of the area and for the intended future development of the sites for housing.

Section 79C(1)(d) Any Submissions

Community Consultation

In accordance with Chapter 2.7 of the Penrith Development Control Plan for the City of Penrith 2006 – Notification and Advertising, the proposed development would normally be notified, however all adjoining land is currently under the ownership of Urban Growth, who is the applicant for this application. There is an approved concept plan that includes the intended subdivision layout that is consistent with this application and therefore notification was considered unnecessary.

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

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

The proposed development will not generate any significant issues of public interest given the nature and scale of the proposal.

Section 94 Contributions

In accordance with Condition C4 of MP10-0075 (as amended) and Condition B8 of MP10-0078, Section 94 contributions are to be paid to Council prior to the Construction Certificate being issued for each dwelling. As such, Section 94 contributions are not required to be levied on the subject application.

Conclusion

In assessing this application against the relevant environmental planning policies, 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. 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, 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

1. That DA14/1511 for Torrens Title Subdivision x 5 lots, be approved subject to the attached conditions.

General

1 [A001](#)

The development must be implemented substantially in accordance with the Subdivision Plan numbered 72-10-2389, drawn by Graham John Hall, dated 21 February 2014 and stamped approved by Council, the application form and any supporting information received with the application, except as may be amended in red on the approved plan and by the following conditions.

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

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

Environmental Matters

3 [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.

Utility Services

4 [G001 - Installation of services and Service Clearances \(subdivision\)](#)

Prior to the issue of a Subdivision Certificate, 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;
- a letter from Endeavour Energy stating that satisfactory arrangements 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 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

5 [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

6 **K205 - Construction Certificate for Subdivision Works**

Prior to the issue of a Construction Certificate for subdivision works the Certifying Authority shall ensure that all subdivision works have been designed in accordance with conditions of this consent, Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments, Engineering Construction Specification for Civil Works, any Roads Act approval issued, Austroad Guidelines and best engineering practice.

The subdivision works include but are not limited to the following:

- Interallotment drainage

The Construction Certificate must be supported by engineering plans, calculations, specifications and any certification relied upon.

Note:

1. Contact Penrith City Council's **Engineering Services Department** on (02) 4732 7777 to ascertain applicable fees.

7 **K514 - Subdivision Compliance documentation**

Prior to the issue of a Subdivision Certificate, the following compliance documentation shall be submitted to the Principal Certifying Authority. A copy of the following documentation shall be provided to Council where Council is not the Principal Certifying Authority:

a) Work as Executed (WAE) drawings of all civil works. The WAE drawings shall be marked in red on copies of the stamped Construction Certificate drawings signed, certified and dated by a registered surveyor or the design engineer. The Work as Executed drawings shall be prepared in accordance with Council's Engineering Construction Specification for Civil Works.

b) Surveyor's Certificate certifying that all pipes and services are located wholly within the property or within appropriate easements and that no services encroach boundaries.

c) A slope junction plan for interallotment drainage lines indicating distances to boundaries and depths.

8 **K Special Condition BLANK**

Prior to issue of a Construction Certificate, interallotment drainage shall be designed / provided for lots that are unable to be drained by gravity to the street system. It shall be constructed in the proposed drainage easement shown on the approved plan of subdivision.

Subdivision

9 **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.

10 **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) Easement to drain water.
- b) Easement for access and maintenance 900mm wide.

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

11 [M014 - Surveyors certificate](#)

A Surveyor's Certificate is to be lodged with the application for a Subdivision Certificate that certifies that all pipes and services are located wholly within the property or within appropriate easements and that no services encroach boundaries.

Certification

12 [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

North Penrith Design Guidelines

3.2 Subdivision

The application consists of 5 proposed Torrens title lots.

The lot sizes vary between 311m² and 345.7m², as the proposal demonstrates the ability for dwellings to be constructed on the resulting lots in accordance with the North Penrith Design Guidelines.

All lots meet the minimum 4.5m width within the R1 zone and are generally between 17.51m to 38.795m in depth.