

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA14/0486.02
Proposed development:	Extension of Consent Period
Property address:	49 Gibbes Street, REGENTVILLE NSW 2745
Property description:	Lot 114 DP 1687
Date received:	21 July 2016
Assessing officer	Kathryn Saunders
Zoning:	Zone R2 Low Density Residential - LEP 2010
Class of building:	N/A
Recommendations:	Approve

Executive Summary

Council is on receipt of an application seeking an extension of lapsing period under Section 95A of the Environmental Planning and Assessment Act 1979 (EP&A Act) for development consent No. DA14/0486.

The subject site is currently zoned R2 Low Density Residential under the provisions of the Penrith Local Environmental Plan 2010 (PLEP 2010) and the approved development for the demolition of existing structures and Torrens Title Subdivision is a permissible form of development within the zone. Further, the approved Torrens Title subdivision (2 x 696.77sqm lots) remains compliant with the applicable minimum lot size of 550sqm's under the PLEP 2010.

The consent notice was issued on 5 November 2014 and is noted as being determined on 24 October 2014 and is due to lapse 24 October 2016.

The application is not required to be notified under the applicable legislation and is to be determined under delegated authority by Council. An assessment under Section 95A (Extension of lapsing period for 1 year) and Section 79C of the EP&A Act has been undertaken and the application is recommended for approval.

Site & Surrounds

The subject site is located on the north-western side of Gibbes Street in Regentville and currently contains a single dwelling house and ancillary structures. The site shares its most eastern boundary with a multi dwelling housing development and shares its western boundary with a single dwelling house with in ground pool and carport. Development in the locality is predominantly comprised of low density residential housing. Nepean Animal Hospital is located to the south-east of the site along nearby Mulgoa Road. The subject site is approximately 550 metres to the west of the M4 Western Motorway.

Proposal

The development application seeks approval for an extension of the lapsing period of consent No. DA14/0486 which was determined on 24 October 2014 and is due to lapse 24 October 2016. It is proposed to extend the lapsing period by 1 year to 24 October 2017 under Section 95A of the EP&A Act which permits Council, on request from the applicant to extend the lapse period of a consent by 1 year.

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

• Section 79C - Evaluation

The development has been previously 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 is found to be compliant.

• Section 95A - Extension of lapsing consent by 1 year

The development has been assessed in accordance with the matters for consideration under Section 79C and Section 95A of the *Environmental Planning and Assessment Act 1979* (EP&A Act), and having regard to those matters is found to be acceptable.

Section 95 Application

The subject application proposes an extension of the subject development consent period as follows:

Current Expiry Date: 24 October 2016

Proposed Expiry Date: 24 October 2017

Planning Assessment Section 79C of the EP&A Act

The development has been previously assessed in accordance with the matters for consideration under Section 79C of the EP&A Act and was found to be acceptable subject to conditions.

In relation to Section 95A of the EP&A Act, it is noted that the applicant has shown "good cause" and there being no outstanding planning considerations, Council can exercise its discretion in consenting to the request for an extension of the consent period by 1 year.

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

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

An assessment was undertaken of development application DA14/0486 against relevant criteria with Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River (No 2—1997) and was found to be satisfactory.

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 1.2 Aims of the plan	Complies - See discussion

Clause 1.2 Aims of the plan

The proposed development under DA14/0486 was assessed against the provisions of the Penrith Local Environmental Plan 1998 (Urban Land) and was found to be satisfactory. The proposal to extend the lapse period of the consent by 1 year will not result in any further matters for consideration and as such is satisfactory having regard to the provisions of the PLEP 2010. It is noted that the development as approved under DA14/0486 is a permissible form of development within the zoning and that the proposed Torrens Title Subdivision is compliant with the applicable minimum lot size identified for the site under the PLEP 2010.

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

There are no draft Environmental Planning Instruments that have been placed on public exhibition that apply to the subject proposal.

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

Development Control Plan 2014

Provision	Compliance
-----------	------------

Section 79C(1)(a)(iiia) The provisions of any planning agreement

There are no planning agreements in place that apply to this application.

Section 79C(1)(a)(iv) The provisions of the regulations

An assessment was undertaken of the subject development under application No. Da14/0486.02 and it was determined that the proposal was capable of complying with the applicable provisions under the *Environmental Planning and Assessment Regulation 2000*.

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

The likely impacts of the proposed development were assessed under consent No. DA14.0486 and were considered acceptable subject to conditions of consent.

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

The site was assessed under DA14/0486 as being suitable for the development as proposed.

Section 79C(1)(d) Any Submissions

Community Consultation

The development application was not required to be notified as per the provisions of the Penrith Development Control Plan 2014.

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 development application seeks and extension of lapsing period under Section 95A of the EP&A Act. The extension will not generate any significant issues of public interest.

Section 94 - Developer Contributions Plans

Applicable contributions were applied to development consent No. DA14/0486 and were included as conditions of consent.

Conclusion

The development application has been assessed against Section 95A and Section 79C of the EP&A Act and has been found satisfactory. The applicant has provided "good cause" as per the requirements of Section 95A of the EP&A Act and it is recommended that the lapse period be extended by 1 year to 24 October 2017.

Recommendation

1. That DA14/0486.02 for the extension of consent at 49 Gibbes Street, Regentville, be approved subject to the attached conditions.

CONDITIONS

General

1 A001

The development must be implemented substantially in accordance with the plan numbered 1, revision A, drawn by Residential Logistics P/L, dated 1 April 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 attached plans 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.

Demolition

3 B001 - Demolition of existing structures

The existing dwelling and associated structures on the subject site are to be demolished as part of the approved work prior to the issue of a subdivision certificate.

4 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**.

5 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.

6 B004 - Dust

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

7 B005 - Mud/Soil

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

8 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.

Utility Services

9 G001 - Installation of services and Service Clearances (subdivision)

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 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.

Engineering

10 K202A - Infrastructure Bond

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 \$1,000 payable for the subject development.

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

11 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 may include but are not limited to the following:

- Sediment and erosion control measures
- Earthworks to ensure all lots are regraded towards Gibbes Street

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.

12 K301 - Sediment & Erosion Control

Prior to commencement of works, sediment and erosion control measures shall be installed in accordance with the approved Construction Certificate and to ensure compliance with the Protection of the Environment Operations Act 1997.

The erosion and sediment control measures shall remain in place and be maintained until all disturbed areas have been rehabilitated and stabilised.

13 [K302 - Traffic Control Plan](#)

Prior to commencement of works, a Traffic Control Plan including details for pedestrian management shall be prepared in accordance with AS 1742.3 "Traffic Control Devices for Works on Roads" and the Roads and Traffic Authority's publication "Traffic Control at Worksites" and certified by an appropriately accredited Roads and Traffic Authority Traffic Controller.

Traffic control measures shall be implemented during the construction phase of the development in accordance with the certified plan. A copy of the plan shall be available on site at all times.

Note: A copy of the Traffic Control Plan shall accompany the Notice of Commencement to Penrith City Council.

14 [K304 - Matters to be addressed prior to commencement of Subdivision Works](#)

Work on the subdivision shall not commence until:

- a Construction Certificate (if required) 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.

A Notice of Commencement is to be submitted to Penrith City Council two (2) days prior to commencement of engineering works or clearing associated with the subdivision.

15 [K408 - Soil testing - Subdivisions](#)

Soil Testing is to be carried out to enable each lot to be classified according to AS 2870 "Residential Slabs and Footings".

16 [K501A - Completion of subdivision works](#)

Prior to the issue of a Subdivision Certificate, the Principal Certifying Authority shall ensure that all subdivision works required by this consent have been satisfactorily completed or that suitable arrangements have been made with Penrith City Council for any outstanding works.

17 [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) The WAE drawings shall be accompanied by plans indicating the depth of fill for the entire development site. The plans must show, by various shadings or cross hatchings, the depth of any fill within 0.3m depth ranges.
- c) 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.
- b) A Geotechnical Report certifying that all earthworks have been completed in accordance with AS 3798 and Council's Design Guidelines and Construction specifications. The report shall include:
 - Compaction reports for bulk earthworks and lot regrading.
 - Soil classification for all residential lots.
 - Statement of Compliance.

Subdivision

18 [M008 - Linen Plan](#)

The application for a subdivision certificate shall include the original Linen Plan and ten (10) 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:

- All existing services are wholly contained within the lot served and/or covered by an appropriate easement.

19 [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.

Development Contributions

20 [N001 - Section 94 contribution \(apply separate condition for each Contribution Plan\)](#)

This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan(s) for Cultural Facilities. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$408 is to be paid to Council prior to a Subdivision Certificate being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The S94 invoice accompanying this consent should accompany the contribution payment. The Section 94 Contributions Plan may be inspected at Council's Civic Centre, 601 High Street, Penrith.

21 [N001 - Section 94 contribution \(apply separate condition for each Contribution Plan\)](#)

This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan(s) for District Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$5633 is to be paid to Council prior to a Subdivision Certificate being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The S94 invoice accompanying this consent should accompany the contribution payment. The Section 94 Contributions Plan may be inspected at Council's Civic Centre, 601 High Street, Penrith.

22 [N001 - Section 94 contribution \(apply separate condition for each Contribution Plan\)](#)

This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan(s) for Local Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$2036 is to be paid to Council prior to a Subdivision Certificate being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The S94 invoice accompanying this consent should accompany the contribution payment. The Section 94 Contributions Plan may be inspected at Council's Civic Centre, 601 High Street, Penrith.

Payment of Fees

23 [P001 - Costs](#)

All roadworks, dedications and drainage works are to be carried out at the applicant's cost.

Certification

24 [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.