

cityscapeplanning+projects

STATEMENT OF ENVIRONMENTAL EFFECTS

PROPOSED 2 x LOT SUBDIVISION
60 BONNER RD, AGNES BANKS

APRIL 2018

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cityscape planning + projects, 2018

This report is provided to accompany a Development Application to be lodged on the subject land and is to be used for that purpose solely and for the client exclusively. No liability is extended for any other use or to any other party. Whilst the report is derived in part from our knowledge and expertise, it is based on the conditions prevailing at the time of the Report and upon the information provided by the client.

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1.0 INTRODUCTION

Cityscape Planning + Projects has been engaged to prepare a Statement of Environmental Effects (SEE) to accompany a Development Application (DA) to be submitted on the subject site. Detailed plans and a completed DA form have been provided separately.

The SEE describes the proposed development and subject site and undertakes an assessment of the proposal against the *Environmental Planning & Assessment Act 1979*, as well as the aims, objectives and development provisions of Penrith LEP 2010 and its associated DCP.

It has been compiled, through on ground investigations, research, analysis and discussion with officers of Penrith City Council.

2.0 THE SUBJECT SITE

The subject site is a large irregular shaped parcel of land located on the southern side of Bonner Rd, approximately 20m east of its intersection with Eaton St.

A plan showing the locality of the site is provided at Figure 1.

The site is known as No.60 Bonner Rd, Agnes Banks but has the following real property description:

Lot: B **DP:** 38896

FIGURE 1: LOCATION OF SITE



Subject site

3.0 DEVELOPMENT PROPOSAL

The applicant seeks Council consent for the subdivision of the subject site to create two (one additional) allotments. The dimension of each lot proposed is represented in Table 1.

The subdivision is a battle-axe type arrangement with a 5m wide access handle proposed to be provided along the eastern boundary of the site.

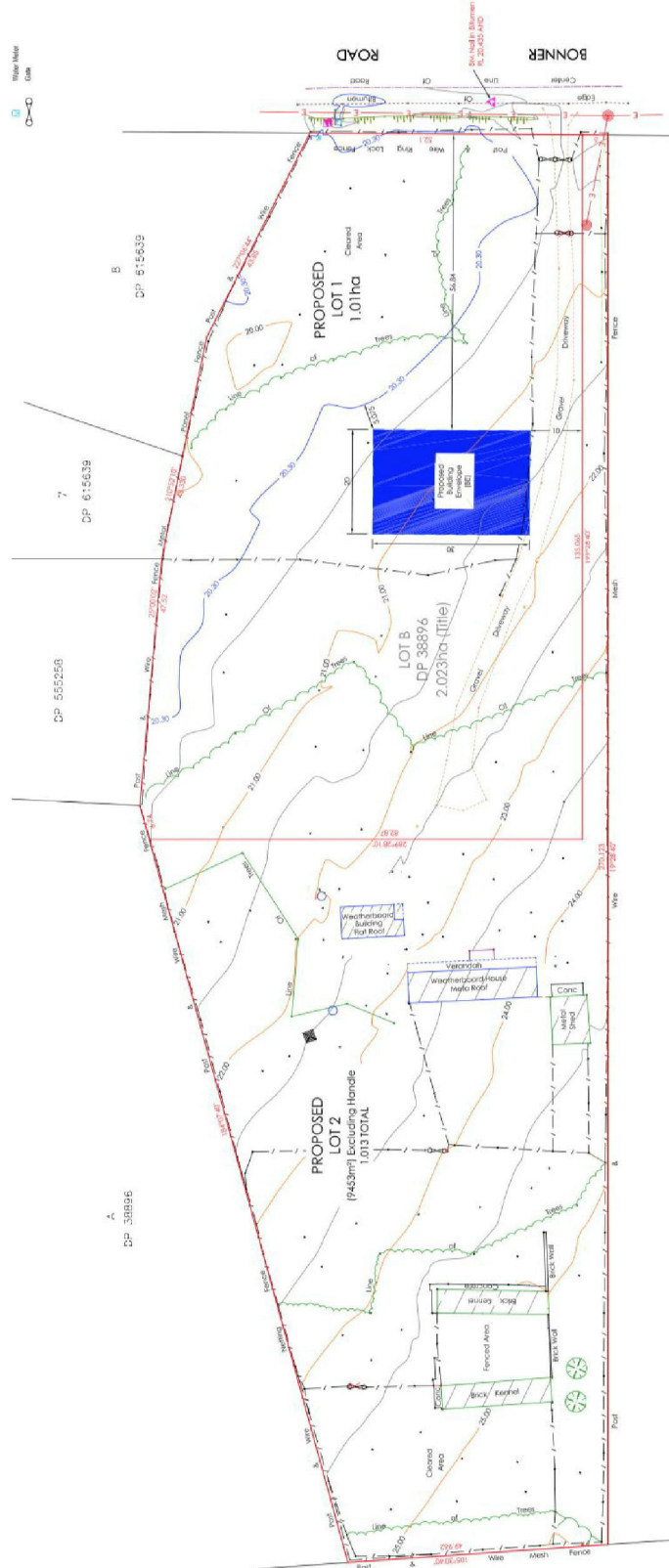
The subdivision also proposes the creation of a Building Envelope on proposed Lot 1 together with an Asset Protection Zone.

A detailed subdivision plan accompanies the Development Application however a representation of that plan is provided at Figure 2.

TABLE 1: PROPOSED LOT DIMENSIONS

Proposed Lot	Area	Vehicular Access
Lot 1	1.01 ha	Direct via Bonner Rd
Lot 2	0.9453 ha	Via access handle

FIGURE 2: PROPOSED SUBDIVISION PLAN



4.0 STATUTORY SITUATION

4.1 DEVELOPMENT PERMISSIBILITY

The subject site is zoned **E4 Environmental Living** pursuant to Penrith LEP 2010. An extract of the relevant zone map is provided at Figure 3.

The lots size map that accompanies the relevant LEP provides a minimum lot size of 1 ha. An extract of that map is provided at Figure 4.

The development provides 1 lot that achieves this minimum requirement but proposed Lot 2 does not achieve the LEP standard.

However, Clause 4.6 of the LEP allows a variation to development standards where it can be demonstrated:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard*

Accordingly, these matters are addressed in a written assessment provided at section 7 of this report.

Therefore the proposed development is permissible under the statutory framework.

FIGURE 3: EXTRACT OF ZONING MAP

Land zoning map - sheet LZN-008

- Zone**
- B1 Neighbourhood Centre
 - B2 Local Centre
 - B3 Commercial Core
 - B4 Mixed Use
 - B5 Business Development
 - B6 Enterprise Corridor
 - E1 National Parks and Nature Reserves
 - E2 Environmental Conservation
 - E3 Environmental Management
 - IN1 General Industrial
 - IN2 Light Industrial
 - IN3 Heavy Industrial
 - R1 General Residential
 - R2 Low Density Residential
 - R3 Medium Density Residential
 - R4 High Density Residential
 - R5 Large Lot Residential
 - RE1 Public Recreation
 - RE2 Private Recreation
 - RU1 Primary Production
 - RU2 Rural Landscape
 - RU4 Primary Production Small Lots
 - SP1 Special Activities
 - SP2 Infrastructure
 - W1 Natural Waterways
 - WSP SEPP Western Sydney Parklands

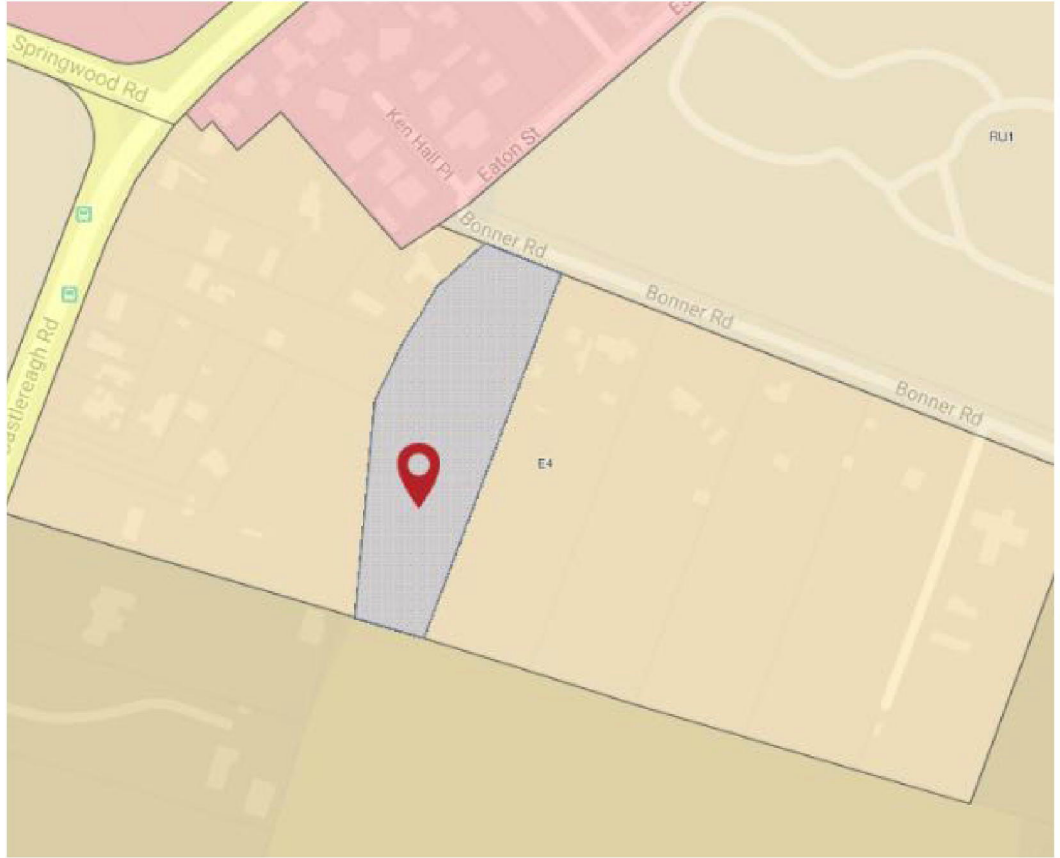
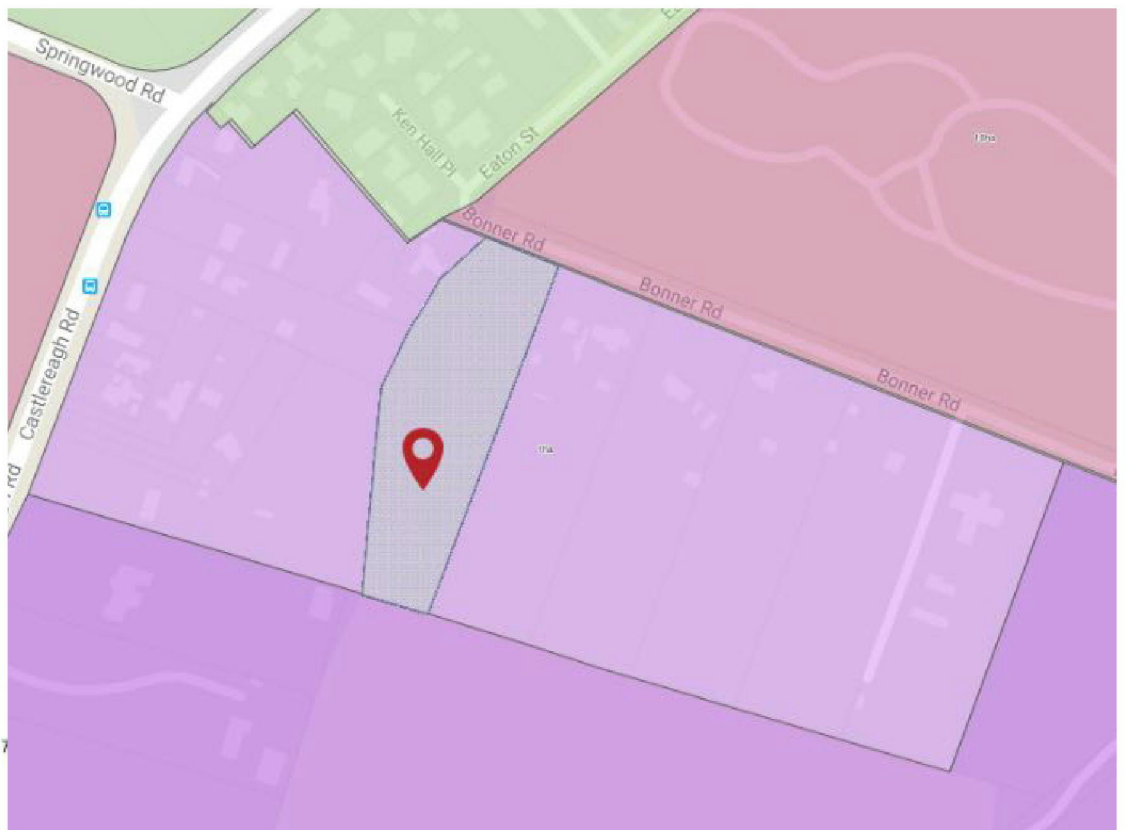


FIGURE 4: EXTRACT OF MINIMUM LOT SIZE MAP

- Minimum Lot Size (sq m)**
- F 400
 - G 450
 - K1 550
 - K2 560
 - M 600
 - R 750
 - S 800
 - U1 1000
 - U2 1200
 - V 2000
 - W 4000
 - X 6000
 - Y1 10000 (1 ha)
 - Y2 12500 (1.25 ha)
 - Z 20000 (2 ha)
 - AB1 100000 (10 ha)
 - AB2 200000 (20 ha)
 - AB3 400000 (40 ha)
 - AI 10000000 (1000 ha+)
 - Refer to Clause 7.16, 7.19 & 7.20



4.2 INTEGRATED DEVELOPMENT

The land is identified as 'bushfire prone land' on the Bushfire Prone Land Map and the development proposes the subdivision of land for residential and rural-residential purposes. The development is therefore Integrated Development under S4.46 of the *Environmental Planning and Assessment Act (EP & A) 1979*.

A Bushfire Assessment accompanies the development application and this assessment determined that the proposed development can comply with the requirements within *Planning for Bush Fire Protection (2006) – A Guide for Councils, Planners, Fire Authorities and Developer*.

5.0 SITE ANALYSIS

5.1 SITE DIMENSIONS

The site is a large irregular shaped parcel of land with a total site area of 2.032ha. It has a frontage of 57.1m to Bonner Rd and a depth 270.123m along the eastern boundary.

5.2 TOPOGRAPHY + DRAINAGE

The site sits within a relatively flat and unrelieved area and as such experiences limited slope or topographic variation. Contours and spots levels are provided on the accompanying subdivision plan as well as the topographic plan provided at Figure 5 and demonstrate the limited relief. Nevertheless, the site does experience an upslope of approx. 1.7m from the front to the rear.

The site does not accommodate any dams or natural watercourses, nor is it exposed to mainstream flooding. However advice from Council indicates that the north-western corner of the site is exposed to overland flow floods.

The site does not possess any other topographical features of significance, including watercourses or rock outcrops.

FIGURE 5: SITE TOPOGRAPHY

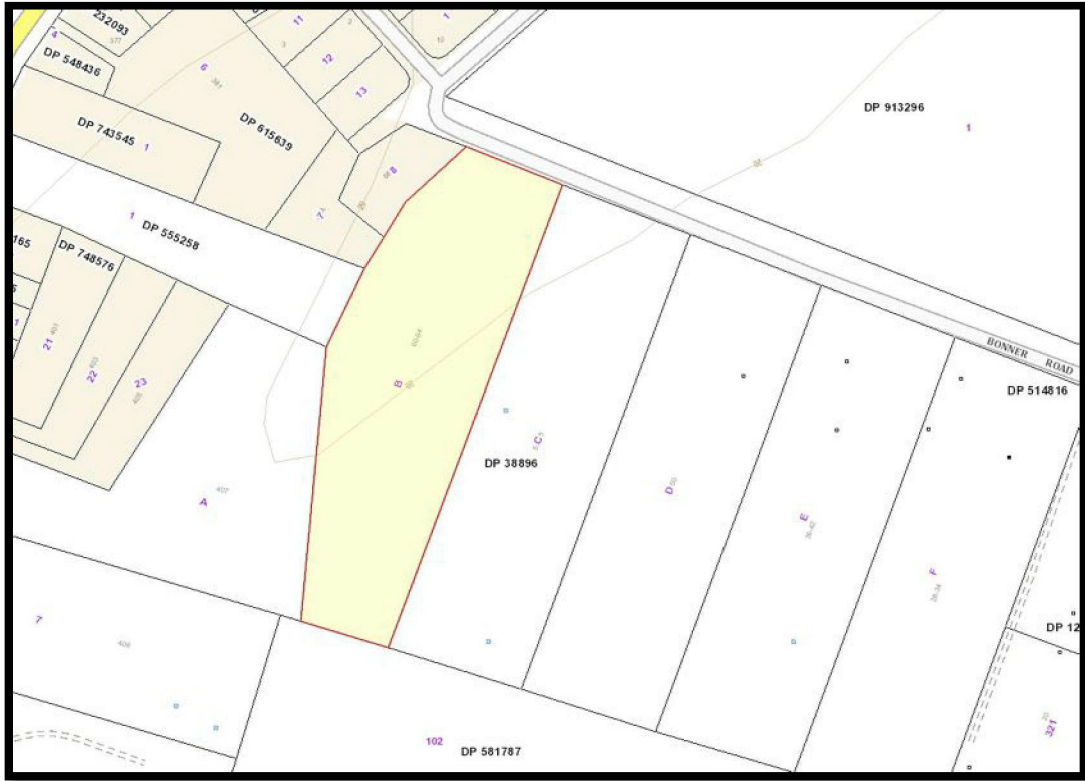


FIGURE 6: AERIAL VIEW OF SITE



5.3 FLORA & FAUNA

The site has been largely cleared of vegetation as part of previous development and use of the site. However, it still does contain a good covering of vegetation including grasses, shrubs and large trees primarily located at the central and rear sections of the site.

The extent of vegetation coverage on site is represented in the aerial photo provided at Figure 6, whilst figures 7-10 provide images of the site and its vegetation. Further detail of the site ecological values is described as part of the accompanying flora and fauna assessment.

5.4 EXISTING DEVELOPMENT

The site currently accommodates a large single storey cottage and dual occupancy, which are located at the central-rear sections of the site. There are also stable and sheds located at the rear of the site within the curtilage of that existing dwelling.

5.5 ADJACENT DEVELOPMENT

The site sits within a rural type environment and the adjoining land to the west and east provides similar rural scaled lots and a mix of rural based land uses. These adjacent uses include, market gardens, animal training establishments, hobby farms and rural-residential type development. Lands to the north and south are primarily represented as large undeveloped parcels containing significant vegetation coverage. The aerial photo provided at Figure 11 demonstrates the sites rural context and adjacent land uses.

FIGURE 7: EXISTING DWELLING



FIGURE 8: EXISTING DUAL OCCUPANCY



FIGURE 9: VEGETATION AT CENTRAL SECTIONS OF SITE



FIGURE 10: CLEARED AREA AT FRONT OF SITE



5.6 ABORIGINAL & EUROPEAN HERITAGE

A search of Council and NSW databases has confirmed that the site is does not accommodate or located within the vicinity of any items of European or Aboriginal Heritage. Written confirmation of the absence of Aboriginal heritage is provided at Annexure A.

5.7 SERVICES & INFRASTRUCTURE

Power and communication services are currently available to the site and it also enjoys access to *Sydney Water's* reticulated water and sewer services. However, the site is currently not connected to the Sydney Water sewer service.

5.8 LOCAL VIEWSHEDS

The site does not sit within any significant viewsheds, but does enjoy a pleasant rural type viewscape as well as views of large bushland units.

5.9 HAZARDS & NUISANCE

The subject site is identified as being bushfire prone on the relevant Council map held by Penrith City Council. An extract of that map is provided at Figure 12. Accordingly, a bushfire hazard assessment accompanies this report.

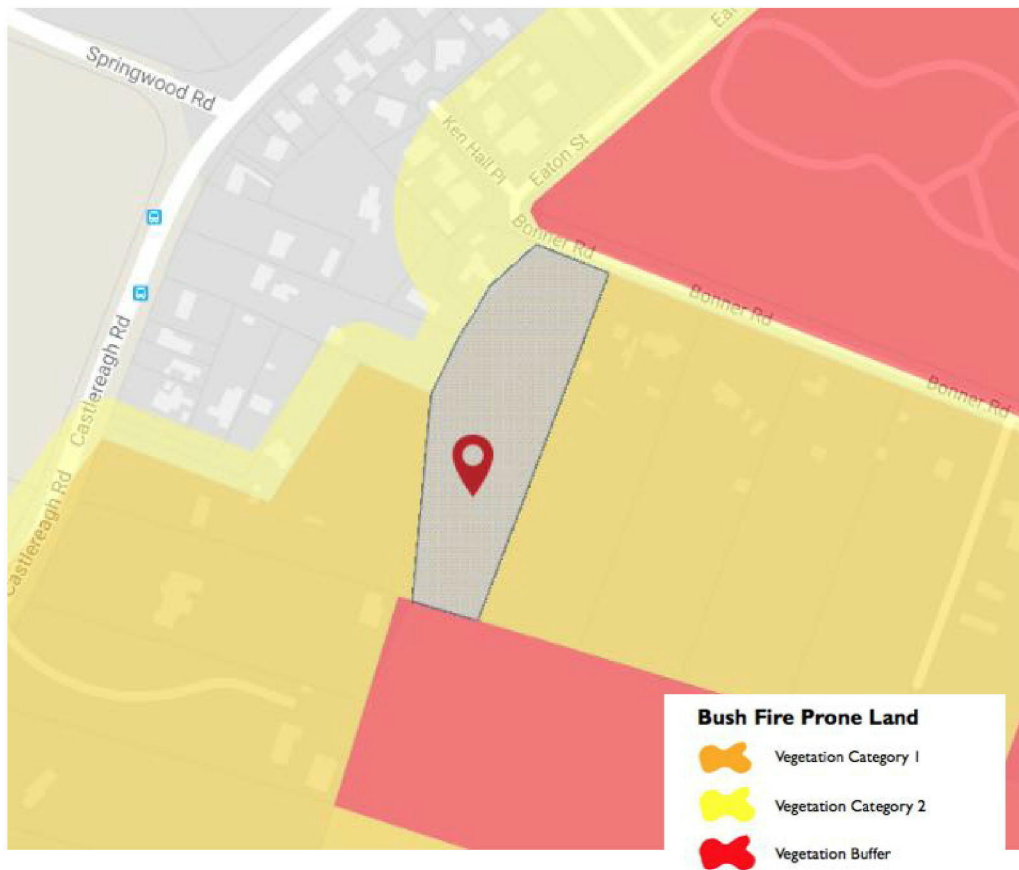
The site is not exposed to main-stream flooding but does experience overlands flows over the rear sections of the site.

The site is not exposed to any other conceivable hazard.

FIGURE 11: ADJACENT LAND USE



FIGURE 12: BUSHFIRE MAP



6.0 PLANNING ASSESSMENT

6.1 THE PROVISION OF ANY ENVIRONMENTAL PLANNING INSTRUMENT

6.1.1 SREP NO.20 – HAWKESBURY NEPEAN

Sydney Regional Environmental Plan No 20 (SREP 20) is in place to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context.

It seeks to achieve this by providing a series of strategies and planning controls that all development must be considered against.

The proposed development is not in conflict with this objective, and it is considered that any risks relating to the protection of the Hawkesbury-Nepean River system would be considered and addressed through the implementation of any conditions of consent relating to erosion and sediment control, and stormwater runoff mitigation.

6.1.2 SEPP No 55 – REMEDIATION OF LAND

The object of this Policy is to provide for a State wide planning approach to the remediation of contaminated land. In particular, this Policy aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment:

- (a) by specifying when consent is required, and when it is not required, for a remediation work, and
- (b) by specifying certain considerations that are relevant in rezoning land and in determining development applications in general and development applications for consent to carry out a remediation work in particular, and
- (c) by requiring that a remediation work meet certain standards and notification requirements

Previous and existing use of the site does not provide any land use or activity that would give rise to any potential for contamination.

6.1.4 PENRITH LEP 2010

The relevant provisions of the Penrith LEP 2010 are provided below together with an assessment of the development against those provisions.

PART 2 PERMITTED OR PROHIBITED DEVELOPMENT

2.3 Zone objectives and land use table

Zone E4 Environmental Living

1 Objectives of zone

- **To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.**
- **To ensure that residential development does not have an adverse effect on those values.**

- To minimise conflict between land uses within the zone and land uses within adjoining zones.
- To ensure land uses are compatible with the available infrastructure, services and facilities and with the environmental capabilities of the land.
- To preserve and improve natural resources through appropriate land management practices.

COMMENT:

The site analysis undertaken at Section 2 of this report reveals that the sites major environmental feature is the remnant bushland that is dispersed across the site.

However, the development provides envelopes that ensure that future built forms will limit the removal of that vegetation as part of any future dwelling and its APZ.

The site is also exposed to overland flow events, however the building envelopes are also removed from these flows.

The development will facilitate new dwelling opportunities and the proposed lots are of a scale that will reflect the prevailing and future settlement pattern and character of the adjacent lands.

The site enjoys access to *Sydney Waters* reticulated water supply and sewer network as well as full suite of power and telecommunication services in addition to the local road network.

The development is of a type and scale that would not exceed the carrying capacities of that infrastructure.

2.6 Subdivision—consent requirements

(1) Land to which this Plan applies may be subdivided, but only with consent.

The subject Development Application seeks to obtain formal Development Consent for the subdivision of the site.

PART 4 PRINCIPAL DEVELOPMENT STANDARDS

4.1 Minimum subdivision lot size

(3) The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land.

The Lot Size Map identifies the subject site as having a minimum lot size of 1 ha.

Table 1 demonstrates that the subject development provides one (1) lot that does not achieve that that minimum size. This is therefore addressed by a formal request to vary the development lot size provided at Section 7 of this report.

PART 5 MISCELLANEOUS PROVISIONS

Not relevant to the site or its proposed development.

PART 6 URBAN RELEASE AREAS

PART 7 ADDITIONAL LOCAL PROVISIONS

7.2 Flood Planning

(1) The objectives of this clause are as follows:

-
- (a) to minimise the flood risk associated with the use of the land,**
 - (b) to limit uses to those compatible with flow conveyance function and flood hazard,**
 - (c) to manage uses to be compatible with flood risks,**
 - (d) to enable safe and effective evacuation of land,**
 - (e) to ensure the existing flood regime and flow conveyance capacity is not compromised,**
 - (f) to avoid detrimental effects on the environment that would cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or waterways.**

The subject site is not identified as being exposed to mainstream flooding.

However, advice has been obtained from Council that indicates that the site is exposed to the 1%AEP local overland flow flood level which is estimated to be RL20.3m AHD. An extract of the relevant overland flow map is provided at Figure 13.

This map reveals that the overland flow occurs at the north western corner of the site.

The subdivision provide both lots with good opportunity for the existing and proposed building envelope and vehicle access to be provided in areas outside those overland flows and therefore ensures that the development is compatible with the sites flood risk.

7.5 Protection of scenic character and landscape values

(1) The objectives of this clause are as follows:

- (a) to identify and protect areas that have particular scenic value either from major roads, identified heritage items or other public places,**

FIGURE 13: 1% AEP OVERLAND FLOW MAP



Definitions

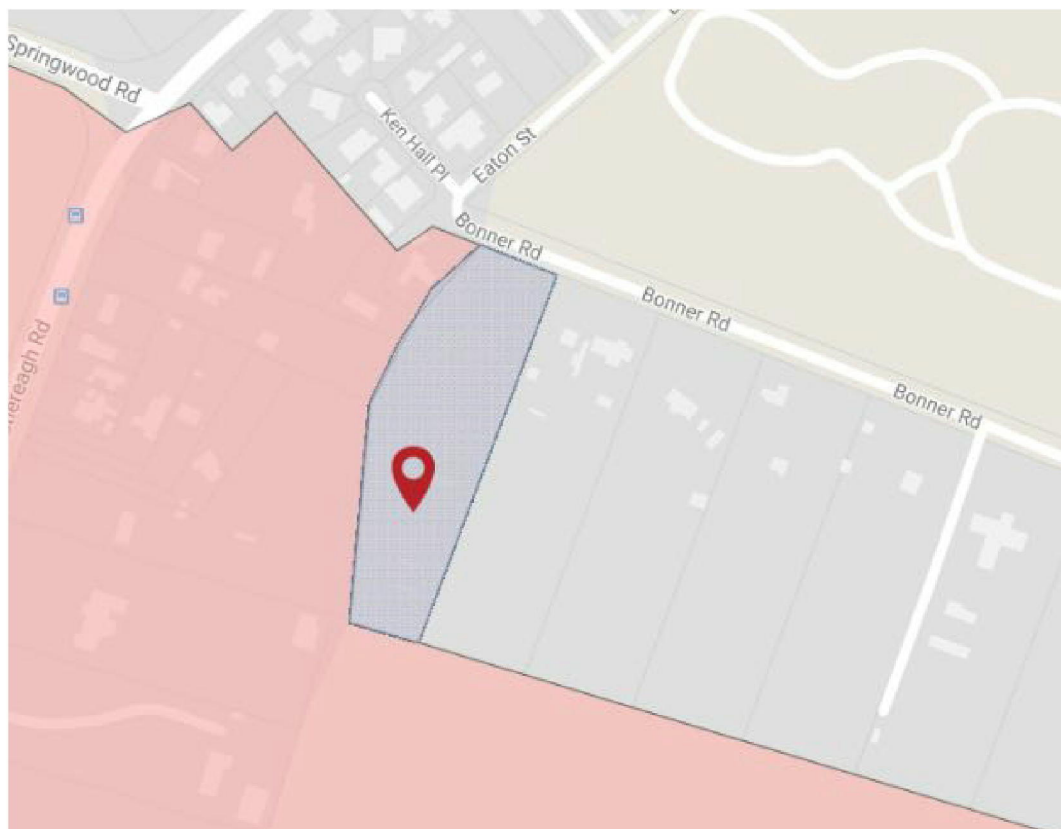
AEP – Annual Exceedance Probability – the chance of a flood of this size occurring in any one year.

AHD – Australian Height Datum – A standard level datum used throughout Australia, approximately equivalent to mean sea level.

Legend

 Extent of 1% AEP local catchment overland flow path. Generally depths less than 150mm is not shown.

FIGURE 14: SCENIC LANDS MAP



(b) to ensure development in these areas is located and designed to minimise its visual impact.

(2) This clause applies to land identified as “Land with scenic and landscape values” on the Scenic and Landscape Values Map.

(3) Development consent must not be granted for any development on land to which this clause applies unless the consent authority is satisfied that measures will be taken, including in relation to the location and design of the development, to minimise the visual impact of the development from major roads and other public places.

The subject is identified on the relevant map. An extract of that Scenic Landscape Values map is provided at Figure 14. The site landscape values primarily relate to its location within the visual catchment of Castlereagh Rd and the rural character values that transport corridor presents.

The proposed development seeks to provide new lots of a size, shape and scale that are entirely consistent with the prevailing land fragmentation pattern provided by adjacent lands. The development will also not result in the loss of any ecologically significant vegetation and therefore allow the conservation of natural scenic and values as part of future development of those lots.

Further the site is well removed from Castlereagh Rd and is fully screened from its viewshed by other development to its west.

Accordingly, for these reasons the development is considered to minimise its visual impact and therefore achieves the requirements of the relevant LEP clause.

7.7 Servicing

(1) The objective of this clause is to ensure that development of land to which this Plan applies reflects the availability of services.

(2) Before granting development consent for development on any land to which this Plan applies, the consent authority must be satisfied that:

(a) the development will be connected to a reticulated water supply, if required by the consent authority, and

(b) the development will have adequate facilities for the removal and disposal of sewage, and

(c) if the development is for seniors housing, the development can be connected to a reticulated sewerage system, and

(d) the need for public amenities or public services has been or will be met.

The site adjoins an established rural-residential urban area and as such enjoys access to power and communication services as an ability to connect to *Sydney Water's* reticulated water and sewer services. An extract of Sydney Waters reticulated systems is provided at Figure 15 and demonstrates the site proximity to those utilities.

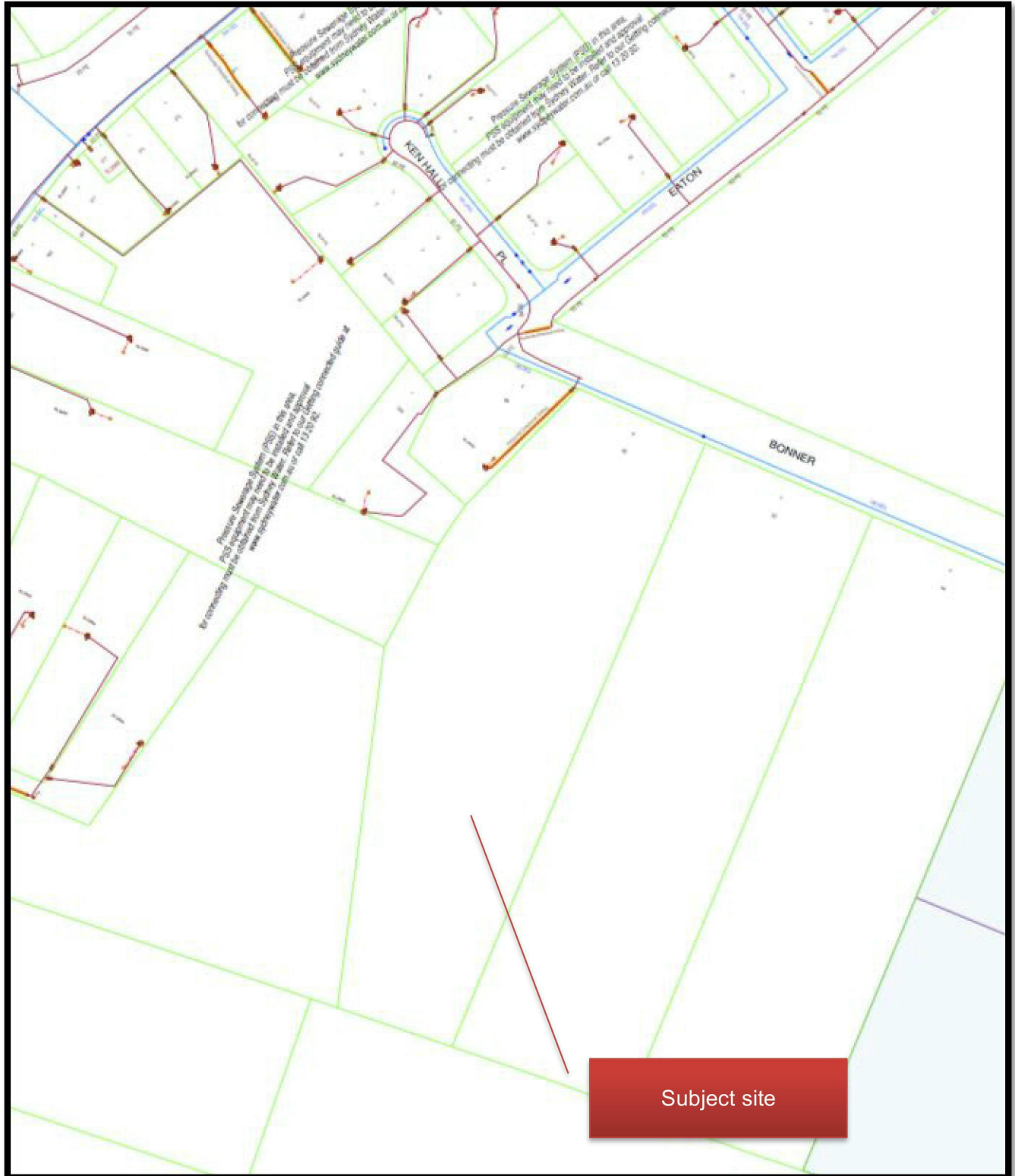
The development will also attract s94 contributions, which will assist meeting demand for local amenities and services.

PART 8 LOCAL PROVISIONS – PENRITH CITY CENTRE

PART 9 PENRITH PANTHERS SITE

Not relevant to the subject site.

FIGURE 15: SYDNEY WATER SERVICING MAP



6.2 THE PROVISIONS OF ANY DRAFT PLANNING INSTRUMENT

The Department of Planning & Environment have recently released a Draft SEPP (Environment) that seeks to protect and management the natural environment. This Draft SEPP applies to the subject site.

However, the Draft SEPP does not necessarily seek to introduce new planning controls but rather simply seeks to consolidate several SEPP's including SREP 20 – Hawkesbury Nepean.

Accordingly, the development proposes no inconsistency with that Draft SEPP.

There are no other known draft Planning Instruments relevant to this development proposal.

6.3 THE PROVISIONS OF ANY DEVELOPMENT CONTROL PLANS

PENRITH DCP 2014

C2 VEGETATION MANAGEMENT

2.2 Biodiversity Corridors and Areas of Remnant Indigenous Vegetation in Non-Urban Areas

B. Objectives

- a) Promote the establishment and retention of biodiversity corridors and areas of remnant indigenous vegetation that contribute to the long-term survival of native fauna and flora species in the area;

- b) Maintain (and where possible increase) the current area of native bushland, and retain the natural species diversity of bushland as far as possible;**
- c) Encourage the planting of a diversity of indigenous species to enhance biodiversity values, scenic quality and landscape character; and**
- d) Facilitate the implementation of weed control and management measures that act upon the processes causing weed invasion of natural areas.**

The native vegetation over the entire property was previously cleared. Two relatively large, cleared areas remain comprising a mixture of native and introduced mostly grasses and herbs. Elsewhere trees have regrown over the groundcover but a shrub layer remains absent. The trees are mostly approximately 10 to 15m in height. The front 1/3 of the property comprises mostly Cabbage Gum (*Eucalyptus amplifolia*) with some Grey Box (*Eucalyptus moluccana*). Then Narrow-leaved Ironbarks (*Eucalyptus crebra*) start to appear and gradually increase in proportion. The rear 1/3 of the property is almost entirely *E.crebra*. The trees across the property are relatively young with most ranging in size from approximately 20cm diameter at breast height (dbh) to approximately 40cm dbh. Some larger trees (up to approx. 60cm dbh and 20m in height) occur along the eastern property boundary within the proposed access handle. No tree hollows occur in any of the trees on the property.

A detailed flora and fauna assessment accompanies the development and concludes that the proposal to subdivide the property into two lots, construct a fence along the boundary separating the proposed lots and use the battle axe handle for an access road to the rear lot would not have a significant impact on flora or fauna.

The proposal would remove approximately thirty (30) Eucalyptus trees, however, the majority of these are young and most of the larger trees on the property would be retained. Furthermore, there is no understorey shrub layer and the groundcover vegetation is sparse greatly reducing the impacts of the clearing. No threatened or otherwise significant species of flora occur on the property.

The report also makes recommendations to offset the impact of the limited tree clearing.

2.3 Bushfire Management

B. Objectives

- a) **Minimise the risk to life, property and the environment in the event of a bushfire, including the lives of emergency personnel;**
- b) **Ensure that all development on bush fire prone land makes adequate provision for access for emergency personnel, vehicles and equipment;**
- c) **Balance the risk of bushfire to life and property with the other principles in this DCP, including the need to protect and enhance existing vegetation where possible; and**
- d) **Recognise that land not classified as 'bushfire prone land' may still be subject to the impact from bushfire, particularly through ember attack.**

A Bushfire Hazard Assessment has been undertaken as part of the development proposal and accompanies the Development Application.

The report concludes that the development can comply with the requirements of *Planning for Bushfire Protection 2006*.

This includes the provision of all required Asset Protection Zones (APZ) entirely within the subject site.

C3 WATER MANAGEMENT

3.5 Flood Planning

C. Control

13) Overland Flow Flooding

- a) Council has undertaken a Penrith Overland Flow Flood 'Overview' Study. Consideration must be given to the impact on any overland flow path. Generally, Council will not support development obstructing overland flow paths. Development is required to demonstrate that any overland flow is maintained for the 1% AEP (100 year ARI) overland flow. A merit based approach will be taken when assessing development applications that affect the overland flow.

The proposed development is able to provide building envelopes in areas removed from the overland flow paths. As such the development will not result in the obstruction of overland flows and causes no inconsistency with the DCP objectives or controls.

C11 SUBDIVISION

11.1. General Subdivision Requirements

C Controls

2. Site Planning

Good subdivision design goes beyond the application of the controls outlined below. Careful appraisal and systematic analysis of the site with consideration of all the natural and man-made constraints is required to ensure that its best qualities are used most effectively to suit the proposed development.

- a) Any proposed subdivision must demonstrate how the proposed subdivision design has taken into account the principles set out in Chapter C1 - Site Planning and Design Principles of this DCP. This includes, but is not limited to:

- i) **Site analysis and response to site context;**

A site analysis is provided both as part of Section 2 this report and the accompanying technical studies demonstrates that

building envelope provided at the central section of the site represents the areas most suitable for development.

- ii) Social impact of proposed subdivision;**
- iii) Economic assessment of the proposed subdivision;**
- iv) Environmental assessment of the proposed subdivision;**
- v) Urban design assessment of the proposed subdivision;**

These matters are addressed at relevant sections of this report.

- vi) Compliance with the provisions of this DCP relating to specific land uses. The allotment size, shape and orientation;**

These matters are addressed at relevant sections of this report.

- vii) The alignment of roads with the natural topography;**

Not relevant as the development does not seek to provide any new roads, however the new access handle occurs within an area that is free from any slope or overland flow constraint.

- viii) Potential energy and water savings from subdivision design and allotment orientation;**

The development provides lots with a generously sized northern aspect. This creates an excellent opportunity to design future dwellings with direct northern aspect to their living areas as well as the potential for installation of solar hot water systems etc on roofs.

There is also ample opportunity for any future dwelling to provide rain-water tanks.

ix) The ability of proposed allotments to operate efficiently for the proposed use and potential future development.

The lots are large relatively unconstrained lands parcels with ample opportunity to provide dwellings on the newly created lots.

b) As part of any site analysis, the proposed subdivision must demonstrate its integration with the natural and physical features of the site including, but not limited to:

i) Slope and orientation of land

The site has limited relief or slope and is typically flat. This presents no constraint to the proposed subdivision or future development of subdivided lands.

ii) Opportunities for solar and daylight access to dwellings (if applicable)

The development provides lots with a generous northern aspects. This creates an excellent opportunity to design future dwellings with direct northern aspect to their living areas.

iii) Design of roads and access ways (individual site access)

The new lots will all enjoy either direct vehicular access to Bonner Rd, or access via an access handle that reflects the current informal access arrangements to the existing dwelling.

iv) Retention of special qualities or features such as trees or views

The development will result in the retention and conservation of the vast majority of vegetation on site. Limited tree removal is

required and has been demonstrated to cause no significant impact.

v) Availability of utilities

The site enjoys access to *Sydney Waters* reticulated water supply and sewer network as well as full suite of power and telecommunication services in addition to the local road network.

The lots will connect to all these utilities as part of the development.

The development is not of a scale that would exceed the carrying capacities of that infrastructure.

vi) Provision of adequate site drainage

All storm waters will be able to be managed on site as part of future development of the proposed lots.

vii) Possible need to retain existing subdivision character

The local area provides a diverse mix of lot sizes and shapes with limited regular shaped allotments present in the local area.

There are also numerous battle-axe lots in the local area.

Therefore the development is considered to retain existing subdivision character of the local area.

viii) Heritage and archaeological conservation

The site does not accommodate or is not located in the vicinity of any items of heritage significance.

ix) Adequacy of each allotment considering relevant development standards for the proposed future land use

The proposed subdivision provides lots of a size that either achieve or provides very limited departures from the minimum allowed under the LEP and therefore provides ample opportunity for the siting of dwellings that would comply with all relevant standards.

x) Relationship to adjacent subdivision patterns

The local area provides a diverse mix of lot sizes and shapes with limited regular shaped allotments present in the local area.

This also includes the existence of numerous battle-axe type lots.

Therefore the development is considered to retain existing subdivision character of the local area.

xi) Potential land use conflicts with adjacent lands

The site is not located in proximity of any development that is likely to cause any land use conflict between the proposed subdivision or existing development.

c) Existing vegetation and natural drainage lines should be retained and enhanced wherever possible.

This has been previously addressed in this report.

d) Existing dams should be retained where possible.

The site does not possess any dams.

e) Long and narrow allotments should be avoided. Allotments should have a maximum of 4:1 depth to width ratio.

Proposed lot 2 is the narrowest of the proposed lots and has a length to width ratio of 2.75:1 and therefore well achieves the ratio identified by the DCP.

f) 'Battle-axe lots' are discouraged by Council. No more than two allotments shall be served by a shared access corridor. Where a corridor is shared, reciprocal rights of way and easements for drainage shall be granted over the access corridor for the benefit of both allotments.

One battle-axe lot is proposed as part of the subdivision. This proposed access arrangement represents the most sensible and logical development response to the site given the site prevailing development pattern and overland flow site constraints.

g) Applications for subdivision need to demonstrate that each of the proposed allotments can support the proposed development/buildings by providing a Potential Development Area Plan. This Plan (based on a survey diagram) shall show the potential development area of each allotment (after taking into account setbacks that may be required to meet built form or environmental controls in this DCP).

Section D1 of the DCP requires a 30m setback to Classified Roads and a 10m setback to side boundaries.

The development does not have a frontage to a classified road but all proposed lots can achieve the minimum side setback requirements as well as generous front setback to Bonner Rd.

h) Applications should be accompanied by landscape plans indicating proposed landscaping and parking arrangements.

It is considered that landscape plans are more appropriately provided as part of any Development Applications for future dwellings or development.

i) New lots should be located so as to protect, enhance or conserve areas of high scenic or recreational value. Council may consider subdivisions/buildings in these higher value areas where ridgelines, vistas and other geographic features are not interrupted or where building materials that blend with the environment are to be used.

The site is located within an area of scenic landscape values, attributed primarily to its location within the Castlereagh Rd viewshed. However, the site is well removed from that road corridor and existing development located to the west of the site will screen future development of the subject site from the road corridor therefore mitigating and adverse visual impacts.

3. Subdivision of Environmentally Sensitive Areas

- a) Applicants are required to address the environmental impacts of any proposed subdivision of land where the proposed allotment(s) are within or adjacent to land shown on the Environmentally Sensitive Land Map attached to the LEP.**
- b) Council will not support the subdivision of land within or adjacent to the land noted on the Environmentally Sensitive Land Map where the subdivision will result in fragmentation that will make control of environmental outcomes difficult to achieve.**
- c) Council may require dedication of conservation easements where necessary over land adjacent to land shown on the Environmentally Sensitive Land Map to protect areas identified to be of significance.**

The matters relating to the impact of the threatened ecological communities have been addressed in previous sections of this report.

4. Vegetation Management

- a) Any subdivision proposal is required to address the objectives and controls set out in Chapter C2 - Vegetation Management and C6 - Landscape Design with particular focus on the protection of existing vegetation.
- b) Not more than 10% of the vegetation on any site shall be cleared (or required to be cleared) as a result of any subdivision proposal.
- c) The design of any subdivision layout must ensure that the potential development pattern supported by the proposed subdivision design will preserve the existing landscape character of the site.
- d) A subdivision application on land adjacent to or noted as being Bushfire Prone Land will need to address the controls set out in C2 – Vegetation Management relating to bushfire protection and provision of asset protection zones, minimising the removal of significant areas of existing vegetation.

This matter is addressed previously in this report and accompanying flora and fauna assessment.

5. Water Management

- a) Any subdivision proposal is required to address the objectives and controls set out in Chapter C3 - Water Management with particular focus on ensuring that the proposed subdivision is appropriate considering the likelihood of, amongst other issues of:
 - i) The potential impacts of any future development on water catchments and surface water quality;
 - ii) The potential impacts of any future development on watercourses, riparian corridors and wetlands or other environmentally sensitive areas;
 - iii) The potential for flood risk and damage to life and property and the need to provide safe emergency access/egress from the site;

- iv) **Issues arising from stormwater and drainage requirements;**
- v) **The potential for the site design to incorporate features of Water Sensitive Urban Design.**

Stormwater generated from any future development will be able to be managed on site and is highly unlikely to cause any adverse impact to local or regional water quality.

- b) **Council will not approve any subdivision of lots where it is evident that a flood free building envelope and safe internal access from/to the public road cannot be provided. The building envelope for any dwelling should be flood free in a 1 in 100 year flood. Evidence of this must be provided as part of any application.**
- c) **Council will not support the subdivision of any land located in floodway or areas of high flood hazard.**
- d) **Subdivision of flood planning land in rural zones creating additional allotments will generally not be supported. However, where the applicant can demonstrate that:**
 - **the flood hazard low;**
 - **flood free access can be provided; and**
 - **a minimum of 1000m² of each allotment is flood free, allowing for a dwelling and all ancillary works, Council may consider a subdivision application.**
- e) **Generally, land situated within existing residential, commercial and industrial zones may only be subdivided to enable its development for urban purposes where the level of the existing land to be developed is not lower than the standard flood. All lots created by such subdivision shall have the portion of the lot that can be built upon filled to a level at least 0.5m above the standard flood.**
- f) **Significant filling of flood planning land will not be supported. If minor filling is required on flood planning land, the provision relating to flood liable land will apply (Chapter C3 – Water Management).**

Not relevant as the site is not flood prone.

6. Land Management

- a) **Any subdivision proposal is required to address the objectives and controls set out in Chapter C4 - Land Management with particular focus on ensuring that the**

proposed subdivision is appropriate considering the likelihood of, amongst other issues of:

i) Site instability due to geology, slope or landfill;

The site does not possess any topographical or geological characteristics that would create any conceivable type of site instability.

ii) The need for excavation and fill to create developable allotments;

The site possesses very limited slope and as such will necessitate very limited cut or fill to create developable allotments.

iii) The potential for erosion and sedimentation; and

All erosion and sedimentation potential through future construction phases can be mitigated through implementation of standard management measures.

iv) The potential for salinity.

The site is not identified as being in an area of high potential for salinity. In any event, the development will not cause any exacerbation of any existing salinity problem either on site or on the broader area.

b) Any subdivision application must address whether the proposed site has any potential for contamination (in accordance with the Contaminated Land Management Act 1997), other than by normal grazing activities and, if required by Council, remediate the land in accordance with the legislative requirements before subdivision can be permitted.

The *Department of Planning* have issued Planning Guidelines for the remediation of contaminated land. Table 1 of these guidelines list those land uses that have the potential to cause site contamination.

The site has no know or likely use for any of those land uses identified at Table 1.

There is therefore considered to be limited potential for the site to be contaminated.

7. Culture and Heritage

Subdivision of a known heritage item or in the vicinity of a known heritage item or where there is the likelihood of an Aboriginal Archaeological heritage item must address the objectives and controls set out in Chapter C7 – Culture and Heritage. The proposed subdivision must minimise:

- a) Impact on Aboriginal or European Archaeology on the site;**
- b) Impact on Aboriginal Culture or significant sites.**

A search of Council and NSW databases has confirmed that neither the subject site nor lands within the immediate vicinity of the site are identified as containing any identified items of Aboriginal or European heritage. Written confirmation of the absence of Aboriginal heritage is provided at Annexure A.

8. Access and Traffic

- a) Any subdivision proposal is required to address the objectives and controls set out in Chapter C10 - Transport, Access and Parking with particular focus on ensuring that the proposed subdivision is appropriate considering:**
 - i) Appropriate location of land uses to minimise transport requirements;**

The development responds to the broader strategic initiative of providing environmental living opportunities in the rural environs of the LGA. As such there is no expectation underpinning the strategy that such development would have access to anything other the local road network and bus services.

ii) Likely traffic generation;

The development provides a maximum of 6 additional dwelling opportunity. The RTA document, *Guide to Traffic Generating Developments (2002)*, states that a single dwelling house is likely to generate an average of 9 vehicle trips per day.

The development is therefore likely to generate approximately additional 9 vehicle trips per day.

This additional traffic volume is well within the design capacity of Bonner Rd and the adjacent road network.

iii) Safe access and egress to the site;

Bonner Rd provides a formed road and wide carriageway that runs a on a straight alignment with limited no topographical variation. Figure 15 provides images of this roadway at the existing entrance to the site.

iv) Appropriate lots sizes to provide facilities for cars, pedestrians and bicycles.

The lots are all provided at scale comparable to the minimum of 2 ha and therefore are of a suitable scale to readily provide vehicle accommodation.

FIG 15: BONNER RD CARRIEAGEWAY



- b) Council will not approve any subdivision of new lots in situations where each lot cannot be provided with a safe access point to an existing public road.**

The proposed subdivision plan clearly shows that each lot will be able to provide vehicular access to Bonner Rd.

- c) Council may not approve subdivision of allotment/s where access is to be a Crown Road only (see Council's Policy, Access from Crown Roads).**

Not relevant to the subject development.

- d) Site frontage must be sufficient to permit vehicular and pedestrian access to the site.**

- e) **A minimum allotment frontage of 25 metres must be provided when the allotment has a vehicle access point to a collector or major road.**
- f) **Council and the Roads and Traffic Authority require that access points are grouped at existing or limited access points whenever feasible to minimise the traffic impact and risk on additional access points to road networks.**

Bonner Rd is not a major road within the regional road hierarchy, however all lots provide widths well in excess of 25m.

- g) **Where an internal road system is proposed to a new subdivision, the application must demonstrate a distinctive and hierarchical network of roads with clear physical distinctions between each type of road, based on function, capacity, vehicle speeds and public transport.**
- h) **Any proposed road systems must provide acceptable levels of access, safety and convenience for all road users, while ensuring acceptable levels of amenity and protection from the impact of traffic.**

Not relevant to the subject development has no new internal road system is proposed.

- i) **Council may levy a road contribution or require road upgrading for all proposed lots whether the lots are accessed by sealed or unsealed roads. The amount of the contribution will depend on the current standard of the road and the increased levels of traffic to be generated.**

It is expected that Council will consider this issue as part of the development assessment process.

9. Noise and Vibration

Any subdivision proposal is required to address the objectives and controls set out in Chapter C12 - Noise and Vibration with particular focus on designing lots so sensitive buildings (especially dwellings) will have sufficient setbacks or noise mitigation measures to minimise noise and vibration impacts.

The site is not located within any proximity of any noise generating activity.

10. Infrastructure and Services

- a) Council will not approve of any subdivision of new lots where requirements for effluent/waste water disposal cannot be adequately met on each individual lot.**

The existing dwelling currently relies upon an on-site waste water management system. However, the site enjoys access to Sydney Waters reticulated sewer networks and as such all dwellings on both sites will be able to connect to that system.

- b) Council will not approve of any subdivision of new lots where the provision of services such as electricity, telephone and other centralised services would result in additional costs not paid for by the applicant.**

Satisfactory arrangements will be required to be made with Sydney Water in conjunction with submission of the subdivision application. Documentary evidence will be required of the consultation which has been undertaken.

All such services are available. It is expected that any Development Consent Notice will ensure, by conditions, that the relevant DCP provision is satisfied.

D. LIFTING THE BAR

The following represent some ways in which Applicants can demonstrate additional commitment to the principles expressed in this DCP. Demonstration of this commitment may lead to Council considering variation of development standards under Clause 4.6 of Penrith LEP 2008.

- a) Consolidation of Allotments: Where an Applicant is proposing substantial works that require a development application on rural or industrial properties across a number of allotments with a single use, an Applicant should review the potential to**

consolidate those allotments as part of the development application.

- b) **Environmentally Sensitive Lands:** Where a proposed subdivision is either within or immediately adjacent to land on the Environmentally Sensitive Land Map in the LEP, an Applicant should discuss with Council the potential to dedicate part of the subdivision as a buffer to that environmentally sensitive land.
- c) **Water Sensitive Urban Design:** Where a subdivision involves more than 10 allotments or an area greater than 5 hectares, an Applicant should demonstrate to Council how the proposed subdivision layout will incorporate Water Sensitive Urban Design mechanisms both at the entire subdivision level and for each site.

None of the above criteria are relevant to the subject site. Nevertheless, better environmental outcomes associated with the development are demonstrated at Section 7 of this report.

11.2. RURAL SUBDIVISION

C. Controls

1. Land Capability

As part of any subdivision application for rural lands, an applicant must address the impact that the proposed subdivision will have on the agricultural capability and sustainability of the proposed allotments as well as the impact on agriculture in the surrounding area. This must address social, economic and environmental factors.

Not relevant as the subject development does not propose subdivision for future agricultural purposes.

2. Avoiding Land Use Conflicts

- a) If any proposed subdivision is located within 1 kilometre of an existing approved or licensed intensive agriculture operation, waste facility, noxious, offensive and hazardous land use or sensitive land use the application will need to address how any

potential land use conflicts (including but not limited to noise, dust, odour, traffic, light etc) will be minimised.

b) Site locations must ensure such existing land uses will still comply with the draft EPA Point Source Odour Control Guidelines and other relevant publications including the NSW Feedlot Manual.

c) Use of building envelopes, buffer zones and planting will be considered in helping to mitigate these issues.

The site is not located in close proximity to any of the identified land uses and therefore presents no opportunity for land use conflict.

3. Subdivisions for Dwellings

a) Applications for subdivision that will include a new dwelling should be accompanied by a proposal for siting of a dwelling.

b) In some circumstances, the building envelope (ground area and height) and/or design guidelines specifying the proposed building location/height must be registered on the Certificate of Title as part of the subdivision approval process

c) The building envelope must comply with the relevant setbacks from roads, water courses, building separations and side boundaries in Chapter D1 Rural Land Uses.

The proposed subdivision plan provides ample spaces for accommodating building envelopes that will allow all future development to achieve all relevant setbacks.

6.4 ANY PLANNING AGREEMENT

The development does not propose or rely upon any planning agreement entered into under section 7.4 of the EP& A Act.

6.5 IMPACTS OF DEVELOPMENT

6.5.1 NATURAL ENVIRONMENT

The proposed subdivision seeks only to create 2 lots. The site does possess some ecological features, however, the lot layouts allow for building envelopes to be sited in areas that only require limited tree removal.

No obstruction of overland flood flows will be caused by the development.

All necessary services and infrastructure are currently available to the broader area, including sewer services.

6.5.2 BUILT ENVIRONMENT

The local character of the area is represented by large free-standing dwellings on a mixture of various scaled rural type lots.

The proposed subdivision will facilitate new built forms of a similar scale and therefore maintain the prevailing built character of the local area.

The development will therefore will have no adverse impact upon the built environment.

6.5.3 SOCIAL IMPACT

The development is not of scale or type that is considered to cause any significant social impact.

6.5.4 ECONOMIC IMPACT

The proposed subdivision will cause no economic impacts to the local or broader area.

6.6 SUITABILITY OF THE SITE

The subject site is appropriately zoned and serviced to accommodate the proposed development and will cause no adverse impacts to the built or natural environment.

The subject site is therefore ideally suited to the proposed development.

6.7 THE PUBLIC INTEREST

The public interest is best served when the outcomes from development represents positive benefits as distinct from negative benefits.

The proposed subdivision has no negative outcomes and hence the public interest is best served by approval of the development.

7.0 REQUEST TO VARY A DEVELOPMENT STANDARD

7.1 INTRODUCTION

This application to vary a development standard has been prepared in accordance with the *Department of Planning & Infrastructure Guide 2011* and relates to proposed Lot 2.

7.2 MATTERS FOR CONSIDERATION

1. WHAT IS THE NAME OF THE ENVIRONMENTAL PLANNING INSTRUMENT THAT APPLIES TO THE LAND?

Penrith Local Environmental Plan (LEP) 2010.

2. WHAT IS THE ZONING OF THE LAND?

The subject site is zoned **E4 Environment Living** pursuant to Penrith LEP 2010.

3. WHAT ARE THE OBJECTIVES OF THE ZONE?

1 Objectives of zone

- To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.

- To ensure that residential development does not have an adverse effect on those values.
- To minimise conflict between land uses within the zone and land uses within adjoining zones.
- To ensure land uses are compatible with the available infrastructure, services and facilities and with the environmental capabilities of the land.
- To preserve and improve natural resources through appropriate land management practices

Comment:

The developments consistency with these objectives was addressed previously in this report.

**4. WHAT IS THE DEVELOPMENT STANDARD BEING VARIED?
E.G. FSR, HEIGHT, LOT SIZE**

The minimum lot size for subdivision.

5. UNDER WHAT CLAUSE IS THE DEVELOPMENT STANDARD LISTED IN THE ENVIRONMENTAL PLANNING INSTRUMENT?

4.1 Minimum subdivision lot size

(4C) For the purposes of this clause, if a lot is a battle-axe lot or other lot with an access handle, the area of the access handle is not to be included in calculating the lot size.

6. WHAT ARE THE OBJECTIVES OF THE DEVELOPMENT STANDARD?

4.1 Minimum subdivision lot size

(1) The objectives of this clause are as follows:

- (a) to ensure that lot sizes are compatible with the environmental capabilities of the land being subdivided,
- (b) to minimise any likely impact of subdivision and development on the amenity of neighbouring properties,
- (c) to ensure that lot sizes and dimensions allow developments to be sited to protect natural or cultural features including heritage items and retain special features such as trees and views,
- (d) to regulate the density of development and ensure that there is not an unreasonable increase in the demand for public services or public facilities,
- (e) to ensure that lot sizes and dimensions are able to accommodate development consistent with relevant development controls.

7. WHAT IS THE NUMERIC VALUE OF THE DEVELOPMENT STANDARD IN THE ENVIRONMENTAL PLANNING INSTRUMENT?

Minimum lot size of 1 ha.

8. WHAT IS THE NUMERIC VALUE OF THE DEVELOPMENT STANDARD IN YOUR DEVELOPMENT APPLICATION?

Proposed Lot 2 provides a lot size of 9453m².

9. WHAT IS THE PERCENTAGE VARIATION (BETWEEN YOUR PROPOSAL AND THE ENVIRONMENTAL PLANNING INSTRUMENT)?

Proposed Lot 2 provides a lot width that is 94.53% of the relevant standard.

10. HOW IS STRICT COMPLIANCE WITH THE DEVELOPMENT STANDARD UNREASONABLE OR UNNECESSARY IN THIS PARTICULAR CASE?

It is generally considered that the compliance with a development standard is unreasonable or unnecessary when a development still achieves the underlying of the objectives of the standard despite the non-compliance.

Therefore an assessment of the development against each relevant clause objective is provided below:

(a) to ensure that lot sizes are compatible with the environmental capabilities of the land being subdivided,

The site has a nominal development potential under the statutory planning framework of 2 x 1 ha lots. However, the site is constrained by overland flow, bushfire hazard and remnant bushland.

Development of the site in the proposed configuration, inclusive of one lot being undersized will allow for retention of a greater number of trees than may otherwise be achieved by a complying development, as well as ensuring that bushfire hazard and overland flow hazards are avoided.

As such the proposed lot sizes are considered to be compatible with the environmental capabilities of the land.

(b) to minimise any likely impact of subdivision and development on the amenity of neighbouring properties,

The creation of a development spaces at the central section of the site will allow for a more dispersed settlement pattern that ensures that new infill housing is well removed from the existing dwelling on site and adjacent dwellings to the east and west.

This ensures better amenity outcomes for all new and existing dwelling in the local area.

(c) to ensure that lot sizes and dimensions allow developments to be sited to protect natural or cultural features including heritage items and retain special features such as trees and views,

The site is constrained by overland flow, bushfire hazard and remnant bushland.

Development of the site in the proposed configuration will allow for retention of a greater number of trees than may otherwise be achieved by a complying development, as well as ensuring that bushfire hazard and overland flow hazards are avoided.

(d) to regulate the density of development and ensure that there is not an unreasonable increase in the demand for public services or public facilities,

The site has an area of over 2ha and therefore has a nominal development yield and density of 2 x lots. The proposed development does not exceed that nominal yield and therefore can not be expected to adversely impact upon the planned density of the area or local infrastructure and service demands.

(e) to ensure that lot sizes and dimensions are able to accommodate development consistent with relevant development controls.

Both proposed lots are large enough and have a suitable spatial arrangement to readily allow compliance with all other DCP controls pertaining to future residential development.

11. HOW WOULD STRICT COMPLIANCE HINDER THE ATTAINMENT OF THE OBJECTS SPECIFIED IN SECTION 5(A)(I) AND (II) OF THE ACT.

Section 1.3 of the *Environmental Planning and Assessment Act 1979* provides:

The objects of this Act are as follows:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,***
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,***

- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

The subject site is constrained by several environmental features, however the proposed development response ensures that these constraints and environmental qualities are suitably managed in a sustainable manner.

Further, the proposed development seeks to make the most efficient use of existing infrastructure and services in accordance with the scale of development contemplated and planned for by the LEP.

As such the development represents orderly and economic development of the land and therefore can be considered to be consistent with the objects of the Act.

12. IS THE DEVELOPMENT STANDARD A PERFORMANCE BASED CONTROL? GIVE DETAILS.

No. The development standard is clearly a numerical standard.

13. WOULD STRICT COMPLIANCE WITH THE STANDARD, IN YOUR PARTICULAR CASE, BE UNREASONABLE OR UNNECESSARY? WHY?

The subject site has a total area of 2.023 ha and as such the development clearly has sufficient area to yield 2 x 1 ha lots.

Therefore strict compliance with the standard could indeed be achieved by amending the subdivision by providing two long narrow lots that both have a frontage to Bonner Rd.

However, this complying subdivision arrangement would necessitate the demolition of the existing built forms on site or the dislocation of the dual occupancy and outbuildings at the rear of the site from the existing dwelling.

Further, this complying development proposal would also necessitate vehicle access to be provided over that part of the site impacted by overland flood flows which is a sub-optimal planning outcome.

Alternatively, the battle-axe handle option has been pursued, despite the non-compliance it causes, because it allows for the built forms to be retained and vehicle access to both lots to be provided in flood free areas.

The subject development also provides for a more dispersed settlement pattern by opening up development opportunities to the unused, central sections of the site and ensuring the newly developed lots is well removed from adjacent dwellings and therefore providing a better visual and acoustic amenity outcomes.

Further, the development is 94.534% compliant with the development standard and therefore the non-compliance is very minor and will be illegible in the rural landscape.

Therefore, for these reasons, strict compliance with the development standard would be both unreasonable and unnecessary.

14. ARE THERE SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS TO JUSTIFY CONTRAVENING THE DEVELOPMENT STANDARD? GIVE DETAILS.

Notwithstanding the subject developments non-compliance with the relevant numerical development standards, the development will still meet all the relevant underlying objectives of those standards.

Further, the contravention of the development standards will allow for the following better planning outcomes compared to a complying development:

- Overland flood free building envelopes and vehicle access for both lots
- All dwellings connected to the *Sydney Water* reticulated sewer network and therefore the decommissioning of the existing on-site waste water management system
- APZ's provided to both lots

- Ember protection upgrades and additional water supplies for the existing dwelling and secondary dwelling located on proposed Lot 2.

Accordingly, the proposed subdivision layout provides a more suitable development outcome than a complying development.

In this context, the development proposal is considered to represent sufficient environmental and planning grounds to justify a contravention of the development standard.

8.0 CONCLUSION

The application seeks approval to the subdivision of the subject site to create two (one additional) allotments.

An assessment of the development has been made against the relevant provision of Penrith LEP 2010 and its associated DCP. This assessment demonstrates that the development generally complies with all the identified development standards and criteria.

The report also provides a formal request to vary a development standard that demonstrates that strict compliance with the development standard is both unreasonable and unnecessary in the circumstances of the case.

For these reasons we can see no reason why Council should not approve the proposed subdivision.

ANNEXURE A: AHIMS SEARCH



AHIMS Web Services (AWS) Search Result

Purchase Order/Reference : bonner rd

Client Service ID : 336900

Vince Hardy
16 Alexandra Cres
GLENBROOK New South Wales 2773
Attention: Vince Hardy
Email: vhardy@cityscape.net.au

Date: 03 April 2018

Dear Sir or Madam:

AHIMS Web Service search for the following area at Lot : B, DP:DP38896 with a Buffer of 50 meters, conducted by Vince Hardy on 03 April 2018.

The context area of your search is shown in the map below. Please note that the map does not accurately display the exact boundaries of the search as defined in the paragraph above. The map is to be used for general reference purposes only.



A search of the Office of the Environment and Heritage AHIMS Web Services (Aboriginal Heritage Information Management System) has shown that:

0 Aboriginal sites are recorded in or near the above location.
0 Aboriginal places have been declared in or near the above location. *