

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA14/1122
Proposed development:	Demolition of Existing Structures
Property address:	117 - 127 OConnell Street, CADDENS NSW 2747
Property description:	Lot 11 DP 522660
Date received:	5 September 2014
Assessing officer	Aimee Lee
Zoning:	Zone R1 General Residential - LEP 2010
Class of building:	N/A
Recommendations:	Approve

Executive Summary

Council under delegated authority determined DA11/0796 on 1 June 2012 and issued a Deferred Commencement Consent for the Torrens Title subdivision of 3 existing lots creating 125 residential Lots, 1 public reserve lot and 5 residue lots, construction of drainage works including two detention basins and road subject to conditions.

The applicant has lodged an application under S96 of the Environmental Planning and Assessment Act, 1979 (EP&A Act) seeking an extension to the Deferred Commencement Consent requirement for a further 12 Months (DA11/0796.05) and has sought approval under S95A of the EP&A Act for the extension of consent lapsing period for 1 year (DA11/0796.06). Both DA11/0796.05 and DA11/0796.06 have been approved.

A further S96 application (DA11/0796.04) seeking modification to the subdivision layout and construction of permanent detention basins has also been lodged. Assessment of this application has completed and the application will be determined soon.

To prepare the site for the proposed subdivision and associated civil works, the applicant lodged a separate development application on 5 September 2014 for the demolition of all existing structures on the site. This application was lodged prior to the commencement of Penrith Local Environmental Plan 2010 (Amendment No. 4) therefore the proposal is assessed under the provisions of Penrith Local Environmental Plan 2009 (Caddens) (LEP 2009). According to Clause 2.6A of LEP 2009, demolition requires development consent.

The following issues were identified during assessment of the proposal:

- The site has been the subject of contamination investigation.
- The investigation has confirmed that remediation works are required.
- There are no specific conditions in the Deferred Commencement Consent relating to remediation.
- Health and safety implication associated with demolition in areas adjacent to areas that require remediation and the possibility of other works being commenced on the site

In response to the above issues, the applicant has submitted a Demolition, Environmental, Health and Safety Plan. The Plan has made recommendations for minimisation of disturbance of contaminated soil during demolition.

An assessment under Section 79C of the Environmental Planning and Assessment Act, 1979 (as amended) (EP&A Act) has been undertaken and this application is recommended for approval subject to conditions.

Site & Surrounds

The subject site is situated on the south side of O'Connell Street approximately 850m south of the Great Western Highway. It is bounded by O'Connell Lane to the west. Developments in the area are predominantly residential with the State Archive site situated to the east and University of Western Sydney situated to the north.

The site has a total area of 2.6 hectares and falls from the south to north for approximately 15m.

Existing improvements on the site include:

- Two single storey residential dwellings
- A concrete bitumen driveway
- A dam
- A brick well
- A few metal sheds
- A timber shed
- A tennis court

Proposal

The proposed development seeks approval for the demolition of all existing structures on the site including:

- 2 x single storey brick residential dwellings
- A concrete bitumen driveway
- A dam
- A brick well
- A few metal sheds
- A timber shed
- A tennis court

Plans that apply

- State Environmental Planning Policy No 55—Remediation of Land
- 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.

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

State Environmental Planning Policy No 55—Remediation of Land

The following environmental management issues were identified in the assessment of the proposal:

- The site has been the subject of contamination.
- Remediation works are required to ensure the site is made suitable for the proposed residential use.
- Development Consent No. 11/0796 does not contain specific conditions relating to remediation.
- Conditions have been recommended for DA11/0796.04 to address the contamination/remediation issues and this S96 application has yet to be determined.
- The safety procedures contained in the approved Remedial Action Plan does not form part of DA14/1122.
- Approval for the demolition could result in the commencement of other works on the site and the loss of opportunity to address the remediation works.
- Health and safety implication arising from the demolition occurring adjacent to contaminated areas and disturbance of contaminated soil.

In response to the above issues, the applicant has submitted a Demolition, Environmental, Health and Safety Plan to Council. The recommendations of the Safety Plan are outlined below:

- Demarcate and fence off the 7 areas identified as contaminated and requiring remediation.
- Restrict access to the barricaded contamination areas.
- Engage a licensed contractor to undertake the demolition.
- Following demolition of structures, soil is to be stripped and removed from the site to ensure all demolition waste are removed.
- Take soil samples from each structure's footprint for further testing to confirm contamination.
- Compare the results of validation testing to ASC NEPM (1991 amended 2013) and review and/or update the site RAP as required.

In accordance with Clause 7 of the SEPP, the applicant has carried out investigation of the site and submitted a Remedial Action Plan as part of DA11/0796. As stated above, appropriate conditions have been recommended for DA11/0796.04 to address the contamination/remediation issues. Council is therefore satisfied that the site subject to remediation will be suitable for subdivision and future residential developments.

While there are still environmental concerns in relation to the health and safety implication during demolition of the structures, it is considered that DA14/1122 can be approved subject to appropriate conditions having considered the following:

- The recommendations of the Safety Plan.
- Conditions have been recommended for DA11/0796.04 to address the contamination/remediation issues.
- The safety procedures outlined in the Remedial Action Plan of the Deferred Commencement Consent.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

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

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

Draft Stage 2 of LEP 2010 applies to the site. In accordance with Clause 2.7 of the draft LEP, demolition requires development consent.

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

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

The Regulations do not present any further restrictions or requirements for the proposed demolition on the subject site.

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

Likely impacts of the proposed development as identified throughout the assessment process include:

(i) Context and Setting

The site is zoned R1 General Residential under LEP (Caddens) 2009. Clause 2.6A states that demolition requires consent. The proposed demolition will facilitate preparation of the site for future residential subdivision and associated civil works approved under Deferred Commencement Consent No. 11/0796. The proposal subject to compliance with the recommended conditions will conform to the R1 zone objectives of meeting housing needs and providing a variety of housing types of the community.

(ii) Access and transport

Access to the site is via Caddens Road. It is considered that the traffic generated by the proposed demolition would have minimal impact on the local traffic and parking conditions.

(iii) Soil

As stated above, the site has been the subject of contamination investigations and the investigations have confirmed remediation is required. Whilst DA11/0796.04 has yet to be determined, conditions have been recommended in relation to remediation. The site will be suitable for future residential developments subject to remediation.

The following conditions have been recommended should DA14/112 is recommended for approval:

- The standard condition for the provision of erosion and sediment controls.
- Implementation of the recommendations of the Demolition, Environmental, Health and Safety Plan prepared by Martens dated 17 March 2015.
- The standard condition for handling, storage and disposal of all demolition and excavated materials.

(iv) Site Design

A demolition/waste management plan is submitted with the application. The submitted plan has incorporated information in relation to the provision of sediment fencing, location of stabilised access, site office and areas for stockpiling. The demolition/waste management plan is considered satisfactory and will form part of the approval.

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

The site is suitable for the following reasons:

- The proposed demolition is permitted under Clause 2.6A of LEP (Caddens) 2009.
- The proposed demolition will facilitate subdivision of the site creating residential lots which in turn will provide a variety of housing types meetings housing demand in the locality and thereby conforms to the R1 General Residential zone objectives.
- The proposed demolition would have minimal health and safety implication subject to compliance with the recommendations of the Demolition, Environmental, Health and Safety Plan.
- Pending further testing of soil samples to be taken from each structure's footprint, the site will be remediated to ensure it is suitable for subdivision and future residential developments.

Section 79C(1)(d) Any Submissions

Referrals

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

Referral Body	Comments Received
Environmental - Environmental management	Not supported

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

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

Conclusion

The site is suitable for the proposed demolition, the proposal is in the public interest, and there is unlikely to be negative impacts arising from the proposed demolition.

Therefore, the application is worthy of support, subject to recommended conditions.

Recommendation

That DA14/1122 for demolition of the existing structures at Lot 11 DP 522660, No.(117-127) OConnell Street, Caddens be approved subject to the attached conditions (Development Assessment Report Part B).

CONDITIONS

General

1 A001

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

Drawing Title	Plan No.	Prepared By	Date
Detail & Level Survey	Ref: 6072 Issue B	SDG Land Development Solutions	22/04/14
Demolition/Waste Management Plan	WMP 01/01 Issue R01	Universal Property Group Pty Ltd	02/09/14
Demolition Work Plan	-	Universal Property Group Pty Ltd	September 2014
Site Investigation Report	-	Universal Property Group Pty Ltd	September 2014
Waste Management Plan	-	Universal Property Group Pty Ltd	September 2014
Statement of Environmental Effects	-	Universal Property Group Pty Ltd	September 2014
Demolition, Environmental, Health and Safety Plan	P1404554JC01V01	Martens	17 March 2015

2 A special BLANK

All works are to be carried out in accordance with the 'Demolition, Environmental, Health and Safety Plan: 117-127 O'Connell Street, Caddens, NSW' prepared by Martens & Associates P/L dated 17 March 2015.

Demolition

3 B001 - Demolition of existing structures

The existing structures on the subject site are to be demolished as part of the approved work.

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.

Environmental Matters

9 D001 - Implement approved sediment& erosion control measures

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

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

10 D009 - Covering of waste storage area

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

11 D010 – Appropriate disposal of excavated or other waste

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

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

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

Construction

12 H001 - Stamped plans and erection of site notice

Stamped plans, specifications, a copy of the development consent, the Construction Certificate and any other Certificates to be relied upon shall be available on site at all times during construction.

The following details are to be displayed in a maximum of 2 signs to be erected on the site:

- the name of the Principal Certifying Authority, their address and telephone number,
- the name of the person in charge of the work site and telephone number at which that person may be contacted during work hours,
- that unauthorised entry to the work site is prohibited,
- the designated waste storage area must be covered when the site is unattended, and
- all sediment and erosion control measures shall be fully maintained until completion of the construction phase.

Signage but no more than 2 signs stating the above details is to be erected:

- at the commencement of, and for the full length of the, construction works onsite, and
- in a prominent position on the work site and in a manner that can be easily read by pedestrian traffic.

All construction signage is to be removed when the Occupation Certificate has been issued for the development.

13 H002 - All forms of construction

Prior to the commencement of construction works: *Nominate*

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

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

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

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

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

Engineering

14 K026 - Stabilised access

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

15 [K041](#)

An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Council's Public Infrastructure Assets. The bond is to be lodged with Council prior to the issue of a Construction Certificate. The bond is based upon the estimated value of the works with a bond of \$500 payable for the subject development.

The bond is refundable once a final inspection has been carried out by Council's Works Department and the works have been completed to Council's satisfaction. The bond may be used to repair or reinstate any damage that occurs to Council's Public Infrastructure Assets as a result of the development works.

Contact Council's City Works Department on 4732 7777 or visit website to obtain the form and request for final inspection.

Landscaping

16 [L008 - Tree Preservation Order](#)

No trees are to be removed, ringbarked, cut, topped, or lopped or wilfully destroyed without the prior consent or Penrith City Council and in accordance with Council's Tree Preservation Order and Policy.