

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA14/1495
Proposed development:	Demolition of Existing Cottage
Property address:	12 North Street, PENRITH NSW 2750
Property description:	Lot B DP 160112
Date received:	25 November 2014
Assessing officer	Jonathon Wood
Zoning:	ZONE B4 MIXED USE PCCLEP 2008 ZONE SP2 INFRASTRUCTURE PCCLEP 2008
Class of building:	N/A
Recommendations:	Approve

Executive Summary

Council is in receipt of a development application for the demolition of the existing cottage on the subject site, noting that the cottage is identified as a draft heritage item under Draft Penrith LEP 2010 (Stage 2). The cottage is not currently listed under PLEP 1991 or Penrith City Centre LEP 2008. The site is partly zoned SP2 Infrastructure (future road widening) and partly zoned B4 Mixed Use under the Penrith City Centre LEP 2008. Demolition is permitted with consent noting that the cottage is a proposed heritage item of local significance. A statement of heritage impact has been submitted which outlines that the heritage significance of the cottage is compromised by its "modest physical condition, intactness and architectural quality, and loss of its historic setting". This has been confirmed by Council's heritage advisor and the demolition of the cottage is considered acceptable subject to an archival recording.

The application was not required to be notified to adjoining properties based on the provisions of Penrith DCP 2006.

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

Site & Surrounds

The subject site is a 474.2 sq.m allotment situated on the southern side of Worth Street. The allotment has a 12.73m frontage to North Street and a depth of approximately 45m with the rear boundary reducing to a width of 8.13m.

The site currently contains an existing cottage used for a number of years by the Penrith Lapidary Club, however this use ceased several years ago and the building is now vandalised and currently fenced off from North Street. The immediate locality to the east and west is vacant, noting that this land is to accommodate future road widening of North Street. Further to the south are a number of large allotments zoned B4 Mixed Use that are currently vacant. The western railway line is immediately to the north of the site.

Proposal

The proposed development involves the demolition of the existing cottage on the site in order to facilitate future road widening to North Street by the RMS to form two lanes in each direction (from the existing single lane in each direction). The fibro sheeting is to be removed by demolition specialists given the potential for asbestos material to be present.

Plans that apply

- Penrith Local Environmental Plan 2008 (City Centre)
- Development Control Plan 2006
- Development Control Plan 2007 (City Centre)
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

• Section 79C - Evaluation

The development has been assessed in accordance with the matters for consideration under Section 79C of the Environmental Planning and Assessment Act 1979, and having regard to those matters, the following issues have been identified for further consideration.

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

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

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

Penrith Local Environmental Plan 2008 (City Centre)

Provision	Compliance
Clause 2 - Aims of the Plan	Complies
Clause 12 - Zoning of land to which this plan applies	Complies
Clause 13 - Zone objectives	Complies
Clause 15 - Additional permitted uses for particular land	N/A
Clause 16 - Subdivision consent requirements	N/A
Clause 17 - Temporary use of land	N/A
Clause 21 - Height of buildings	N/A
Clause 22 - Architectural roof features	N/A
Clause 23 - Sun Access	N/A
Clause 24 - Floor space ratio	N/A
Clause 25 - Minimum building street frontage	N/A
Clause 26 - Design Excellence	N/A
Clause 27 -Car parking	N/A
Clause 28 - Ground floor development within B3 and B4	N/A
Clause 29 - Building separation	N/A

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

Zoning and Permissibility

Demolition is permitted with consent in the SP2 and B4 zones.

Clause 40 - Heritage Conservation

The proposal seeks consent for the demolition of the existing cottage however the cottage is not listed under the City Centre LEP and therefore the provisions of the clause are not relevant to the proposal.

Section 79C(1)(a)(ii) The provisions of any draft environmental planning instrument Draft Penrith Local Environmental Plan 2010 (Stage 2)

This draft LEP is a conversion of the existing Penrith LEP 2010 and consolidation of the Penrith City Centre LEP 2008. The site will continue to be partly zoned SP2 and partly zoned B4 Mixed Use and the demolition of the cottage is permitted with consent. The proposal satisfies the provisions of the draft LEP, noting that the listing of the cottage as a proposed heritage item of local significance (Item I2260180) is a key consideration.

Clause 5.10 of the draft LEP provides the following:

(4) Effect on heritage significance

The consent authority must, before granting consent under this clause, consider the effect of the proposed development on the heritage significance of the heritage item or heritage conservation area concerned. This subclause applies regardless of whether a heritage impact statement is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).

(5) Heritage impact assessment

The consent authority may, before granting consent to any development on land:

- (a) on which a heritage item is situated, or*
- (b) within a heritage conservation area, or*
- (c) within the vicinity of land referred to in paragraph (a) or (b),*

require a heritage impact statement to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.

A heritage impact assessment has been prepared by Rappoport Pty Ltd dealing with the key matters for consideration. The assessment found that the existing cottage is in a poor state of repair and contains limited heritage significance having regard to the lack of original fabric, general poor condition and erosion of the heritage setting given removal of the other cottages that previously were located on North Street. The heritage impact assessment has been reviewed by Council's heritage advisor and it has been confirmed that, subject to an archival recording, the demolition of the cottage is acceptable from a heritage perspective. Therefore, while there will be a loss of the cottage, which does have an impact in terms of the loss of an historical building, the state of the building means that the cottage has limited heritage significance and the removal of the cottage has limited impact noting that the archival recording will partially mitigate the loss of the building.

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

Development Control Plan 2006

Provision	Compliance
Chapter 2.1 - Contaminated land	N/A
Chapter 2.2 - Crime prevention through environmental design	N/A
Chapter 2.3 - Engineering works	N/A
Chapter 2.4 - Erosion and sediment control	Complies
Chapter 2.5 - Heritage management	Complies - see Appendix - Development Control Plan Compliance
Chapter 2.6 - Landscape	N/A
Chapter 2.7 - Notification and advertising	Complies - see Appendix - Development Control Plan Compliance
Chapter 2.8 - Significant trees and gardens	N/A
Chapter 2.9 - Waste planning	Complies
Chapter 2.10 - Flood liable land	N/A
Chapter 2.11 - Car parking	N/A
Chapter 2.12 - On-site sewage management	N/A
Chapter 2.13 - Tree preservation	N/A

Development Control Plan 2007 (City Centre)

Provision	Compliance
Part 2 - Building form	N/A
Part 3 - Pedestrian amenity	N/A
Part 4 - Accessing, parking and servicing	N/A
Part 5 - Sustainable development	N/A
Part 6 - Residential development controls	N/A
Part 7 - Controls for special areas	Complies
Part 8 - Controls for special developments	N/A

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

There are no planning agreements applying to this application.

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

The Regulations do not contain specific provisions relevant to the current development application.

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

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

Neighbourhood Character

The removal of the cottage will facilitate future road widening consistent with the SP2 zoning applying to the site.

Heritage Conservation

The property is not identified as having heritage significance under the existing LEPs, however as discussed in detail previously in this report, the cottage is identified in Draft Penrith LEP 2010 (Stage 2) as an item of local significance. The heritage impact assessment concludes that the removal of the item is acceptable from a heritage perspective having regard to the poor state of repair of the building, loss of historic setting and the number of additions to the building. This has been confirmed by Council's heritage advisor and subject to an archival recording, the removal of the cottage is acceptable from a heritage perspective.

Site Management Requirements

The proposed development will have no impact on soil erosion and sedimentation. Conditions are proposed in relation to the handling of asbestos material should it be encountered during the demolition process. There is also sufficient land to enable the demolition of the cottage without impacting on the functionality of the road network.

Social and Economic Impacts

The proposed development has limited social and economic impacts, noting that the removal of the cottage will facilitate future road widening of North Street by the RMS.

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

The site has been earmarked for future road widening by the RMS and the existing cottage is in a poor state of repair. The removal of the cottage will facilitate the widening of North Street which provides for a substantial public benefit and the removal of the cottage is appropriate given the identification of the site for road widening.

Section 79C(1)(d) Any Submissions

Community Consultation

In accordance with Chapter 2.7 of the Penrith Development Control Plan for the City of Penrith 2006, the proposed development did not have to be notified to nearby and adjoining properties.

Referrals

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

Referral Body	Comments Received
Building Surveyor	No objections - subject to conditions
Heritage	No objections - subject to conditions

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

The proposed development will not generate any significant issues of public interest noting the poor state of the building and the long-term identification of the site for future road widening. The future road widening will provide for a substantial public benefit to the broader community and the removal of the existing building will facilitate this future road widening.

Conclusion

In assessing this application against the relevant environmental planning policies, the proposal satisfies the aims, objectives and provisions of these policies.

The removal of the cottage will facilitate future road widening and the existing cottage has limited heritage value despite the identification of the building as part of Draft Penrith LEP 2010 (Stage 2) as an item of local significance. This has been confirmed in the submitted heritage impact assessment and by Council's heritage advisor.

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

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

Recommendation

That DA14/1495 for demolition of an existing cottage at 12 North Street, Penrith, be approved subject to the attached conditions.

CONDITIONS

General

1 A001

The development must be implemented substantially in accordance with the supporting information received with the application.

Demolition

2 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**.

3 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 portaloo 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.

4 B004 - Dust

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

5 B005 - Mud/Soil

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

6 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.

7 B Special (BLANK)

The site is to remain securely fenced during demolition.

Heritage/Archaeological relics

8 C Special BLANK

Prior to the commencement of demolition works, two (2) complete copies of an archival recording of the existing cottage are to be submitted to Penrith City Council, including a set of photographic negatives. The archival recording shall be prepared by an experienced heritage consultant and be in accordance with the Archival Recording Standards described below:

- Title page (with subject, author, client, date and copyright).
- Statement of why the record was made.
- Outline history of the item and associated sites, structures and people.
- Statement of heritage significance of the item using the State Heritage Inventory criteria.
- Inventory of archival documents related to the item (e.g. company records, original drawings) when available.
- Location plan (show relationship to surrounding geographical features, structures, roads, vegetation, etc and include a north point).
- Base plans, drafted or hand-drawn including:
 - (i) cross references to photographs;
 - (ii) name the relevant features, structures and spaces; and
 - (iii) a north point.
- Black and white photographic record, including one set of 35mm black and white negatives labelled and cross referenced to base plans and accompanied by informative catalogues, and two copies of proof sheets and select medium format prints showing important details. The images shall include:
 - (i) views to and from the site (possibly from four compass points);
 - (ii) views showing relationships to other relevant structures and landscape features;
 - (iii) all external elevations;
 - (iv) views of all external and internal spaces (e.g. courtyards, rooms, roof spaces, etc.); and
 - (v) external and internal details (e.g. joinery, construction joints, decorative features, paving types, etc) with all photographic images mounted and labelled.
- Colour slides (two copies mounted in archivally stable slide pockets, clearly labelled and cross referenced to base plans). Images shall include:
 - (i) view to and from the site and/or the heritage item, and
 - (ii) views and details of external and internal colour schemes as appropriate.Selected colour prints may be required. They should be mounted and labelled.
- Measured drawings, with appropriately scaled drawings printed on archivally stable paper. For a built item, this may include:
 - (i) site plan (1:500 or 1:200);
 - (ii) floor plan(s) (1:100 or 1:50);
 - (iii) elevations and sections (1:100 or 1:50);
 - (iv) roof plan(s) (1:100 or 1:50);
 - (v) ceiling and joinery details (1:20 or 1:10); and
 - (vi) machinery and services details, e.g. drainage lineshafts.
- Presentation - The archival recording shall be presented to Council as a single bound document preferably in A4 format. Large maps shall be folded and inserted as map pockets attached to the document. Similarly, all photographic images shall be fixed to the document and labelled. Unbound documents or loose supporting materials such as maps, plans, slides, negatives or prints are not acceptable.

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.

The sediment and erosion control measures are to be installed **prior to and maintained throughout the demolition works until the land, that was subject to the works, has been stabilised and grass cover established**. These measures shall ensure that mud and soil from vehicular movements to and from the site does not occur during the works.

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.

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.

Roads Act Requirements

12 [I001 - Awnings over or on road reserve](#)

Penrith City Council is the Roads Authority under the Roads Act 1993 responsible for approving:

- Works on the road reserve, or
- The placement of hoardings, structures, containers, waste skips, etc on the road reserve.

If any such works are to be carried out a Roads Act Approval is to be obtained.

Landscaping

13 [L007 - Tree protection measures – no TMP with DA](#)

All trees that are required to be retained as part of the development are to be protected in accordance with the minimum tree protection standards prescribed in Section F4 of Council's Landscape Development Control Plan.

14 [L008 - Tree Preservation Order](#)

No trees are to be removed, ringbarked, cut, topped or lopped or wilfully destroyed (other than those shown on the approved plans) without the prior consent of Penrith City Council and in accordance with Council's Tree Preservation Order and Policy.

15 [L Special \(BLANK\)](#)

After demolition works have been completed, the site is to be spraygrassed (or similar) to establish grass cover to stabilise the soil.

Certification

16 [Q001 - Notice of Commencement & Appointment of PCA1](#)

Prior to the commencement of any earthworks, construction or demolition works on site, the proponent is to:

- employ a Principal Certifying Authority to oversee that the said works carried out on the site are in accordance with the development consent and related Construction Certificate issued for the approved development, and with the relevant provisions of the Environmental Planning and Assessment Act and accompanying Regulation, and
- submit a Notice of Commencement to Penrith City Council.

The Principal Certifying Authority shall submit to Council an "Appointment of Principal Certifying Authority" in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

Information to accompany the Notice of Commencement

Two (2) days before any earthworks or construction/demolition works are to commence on site (including the clearing site vegetation), the proponent shall submit a "Notice of Commencement" to Council in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

Appendix - Development Control Plan Compliance

Development Control Plan 2006

Part 2 - City wide controls

Section 2.5 - Heritage Management

The cottage is not identified as a heritage item under the provisions of Penrith LEP 1991 (Environmental Heritage Conservation) nor is it identified under the Penrith City Centre LEP 2008. The heritage significance is derived from identification as a draft heritage item of local significance under Draft Penrith LEP 2010 (Stage 2). A heritage impact statement accompanies the development application and concludes that the heritage significance of the draft item is "compromised by its physical condition, intactness and architectural quality, and loss of its historic setting". The assessment concludes that the loss of the cottage is acceptable from a heritage perspective and comments from Council's heritage advisor have raised no objection to the removal of the cottage on heritage grounds. Therefore, the proposal satisfies the provisions of the DCP.

Section 2.7 - Notification and Advertising

The DCP does not require notification/advertising of demolition of heritage items (local significance) and therefore the proposal was not notified to adjoining properties.