

# PENRITH CITY COUNCIL

## NOTICE OF DETERMINATION

### DESCRIPTION OF DEVELOPMENT

Application number:	DA17/1100
Description of development:	Torrens Title Subdivision x 2 Lots & OSSM for the existing dwelling
Classification of development:	N/A

### DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 7 DP 17231
Property address:	39 - 51 Devlin Road, CASTLEREAGH NSW 2749

### DETAILS OF THE APPLICANT

Name & Address:	B Hughes, D B Ballard PO Box 298 BLAXLAND NSW 2774
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### DECISION OF CONSENT AUTHORITY

In accordance with Section 4.18(1) (a) of the Environmental Planning and Assessment Act 1979, consent is granted subject to the conditions listed in attachment 1.

Please note that this consent will lapse on the expiry date unless the development has commenced in that time.

Date from which consent operates	13 February 2019
Date the consent expires	13 February 2024
Date of this decision	13 February 2019

### POINT OF CONTACT

If you have any questions regarding this determination you should contact:

Assessing Officer:	James Heathcote
Contact telephone number:	+61247328378

## NOTES

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### **Reasons**

The conditions in the attached schedule have been imposed in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 as amended.

### **Conditions**

Your attention is drawn to the attached conditions of consent in attachment 1.

### **Certification and advisory notes**

You should also check if this type of development requires a construction certificate in addition to this development consent

It is recommended that you read any Advisory Note enclosed with this notice of determination.

### **Review of determination**

The applicant may request Council to review its determination pursuant to Division 8.2 of the Environmental Planning and Assessment Act 1979 within six months of receiving this Notice of Determination.

These provisions do not apply to designated development, complying development or crown development pursuant to Section 8.2(2) of the Environmental Planning and Assessment Act 1979.

### **Appeals in the Land and Environment Court**

The applicant can appeal against this decision in the Land and Environment Court within six months of receiving this Notice of Determination.

There is no right of appeal to a decision of the Independent Planning Commission or matters relating to a complying development certificate pursuant to clause 8.6(3) of the Environmental Planning and Assessment Act 1979.

### **Designated development**

If the application was for designated development and a written objection was made in respect to the application, the objector can appeal against this decision to the Land and Environment Court within 28 days after the date of this notice.

If the applicant appeals against this decision, objector(s) will be given a notice of the appeal and the objector(s) can apply to the Land and Environment Court within 28 days after the date of this appeal notice to attend the appeal and make submissions at that appeal.

### **Sydney Western City Planning Panels**

If the application was decided by the Sydney Western City Planning Panel, please refer to Section 2.16 of the Environmental Planning and Assessment Act, 1979 (as amended) for any further regulations.

## OTHER APPROVALS

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### APPROVAL BODIES

<b>APPROVAL BODY NAME</b>	<b>DATE OF GENERAL TERMS OF APPROVAL</b>	<b>REF. NO.</b>	<b>NO. OF PAGES</b>	<b>RELEVANT LEGISLATION</b>
NSW Rural Fire Service	14 December 2017	D17/4282	2	Rural Fires Act 1997

The approval bodies listed above have provided General Terms of Approval for this development in accordance with the relevant legislation. A copy of these General Terms of Approval is provided with this development consent notice. Compliance with the relevant State Government departments' General Terms of Approval are required in conjunction with the following conditions listed in Attachment 1: Conditions of Consent issued by Penrith City Council.

# ATTACHMENT 1: CONDITIONS OF CONSENT

## General

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

Description	Plan No.	Prepared By	Date
Plan of Subdivision	17957P2 Sheet 1 of 1 Sheets	Vince Morgan Surveyors	25.07.13

- 2 Prior to the release of any Subdivision Certificate, compliance with the requirements of the NSW Rural Fire Service as outlined within the Bushfire Safety Authority dated 14 December 2017 is to be demonstrated.

A copy of the Bushfire Safety Authority approval issued by the NSW RFS under the Rural Fires Act 1997 shall be submitted to the Principal Certifying Authority, before the Construction Certificate can be issued for the same development. A copy of the approval shall be submitted to Penrith City Council with the copy of the Construction Certificate, if Council is not the Principal Certifying Authority.

- 3 Any future residential development applications for the site shall be accompanied by a bushfire risk management report that identifies the applicable Bush Fire Attack construction level(s), specifications and requirements in accordance with "Planning for Bushfire Protection" December 2006 and AS 3959-2009 'Construction of Buildings in Bushfire-prone areas'.

## Demolition

- 4 Dust suppression techniques are to be employed during remediation works to reduce any potential nuisances to surrounding properties.
- 5 Mud and soil from vehicular movements to and from the site must not be deposited on the road.
- 6 Remediation 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.

The provisions of the Protection of the Environment Operations Act, 1997 in regulating offensive noise also apply to all construction works.

## Environmental Matters

- 7 No fill material is to be imported to the site without the prior approval of Penrith City Council in accordance with Sydney Regional Environmental Plan No.20 (Hawkesbury- Nepean River) (No.2-1997). No recycling of material for use as fill material shall be carried out on the site without the prior approval of Council.
- 8 No fill material shall be imported to the site until such time as a Validation Certificate(with a copy of any report forming the basis for the validation) for the fill material has been submitted to, considered and approved by Council. The Validation Certificate shall:
- state the legal property description of the fill material source site,
  - be prepared by an appropriately qualified person (as defined in Penrith Contaminated Land Development Control Plan) with consideration of all relevant guidelines (e.g. EPA, ANZECC, NH&MRC), standards, planning instruments and legislation,
  - clearly indicate the legal property description of the fill material source site,
  - provide details of the volume of fill material to be used in the filling operations,
  - provide a classification of the fill material to be imported to the site in accordance with the Environment Protection Authority's "Environmental Guidelines: Assessment, Classification & Management of Non-Liquid Wastes" 1997, and
  - (based on the fill classification) determine whether the fill material is suitable for its intended purpose and land use and whether the fill material will or will not pose an unacceptable risk to human health or the environment.

{Note: Penrith Contaminated Land Development Control Plan defines an appropriately qualified person as "a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, eco-toxicology, sampling and analytical procedures, risk evaluation and remediation technologies. In addition, the person will be required to have appropriate professional indemnity and public risk insurance."}.

If the Principal Certifying Authority or Penrith City Council is not satisfied that suitable fill materials have been used on the site, further site investigations or remediation works may be requested. In these circumstances the works shall be carried out prior to any further approved works.

- 9 The operating noise level of any plant and equipment used on the subject site shall not exceed 5dB(A) above the background noise level when measured at the boundaries of the premises. The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.
- 10 Erosion and sediment control measures shall be installed **prior to the commencement of works on site**. 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.
- 11 Site remediation works shall be carried out generally in accordance with 'Remediation Action Plan' for 39-51 Devlin Road, Castlereagh prepared by EIAustralia, reference Rep.E23899.E06\_Rev 0 dated 9 January 2019, as well as Penrith Development Control Plan 2014, the applicable NSW Environment Protection Authority Guidelines and the National Environment Protection (Assessment of Site Contamination) Measure (1999) [NEPM 2013].

On completion of the site remediation works, the following documentation is to be submitted for approval to the Principal Certifying Authority and Penrith City Council, if Council is not the Principal Certifying Authority:

- Written notification that the site remediation works have been completed is to be submitted **within 30 days of the said works having been completed.**
- A Validation Report, prepared by an appropriately qualified person as defined in Penrith Development Control Plan 2014, is to be submitted **prior to the issue of any subdivision certificate.** The report shall certify that the remediation works have been carried out in accordance with the approved Remedial Action Plan, relevant NSW Environment Protection Authority requirements, NEPM 2013 and Penrith Development Control Plan 2014.

12 Contaminated topsoil shall not be mixed with uncontaminated underlying natural soils.

13 The linen plan of subdivision is to be supported by an 88B instrument creating a Restriction as to User regarding the following:

No development or works are permitted within the area clouded and noted as "Thick Vegetation" on the plan of subdivision, prepared by Vince Morgan Surveyors Pty Ltd, Plan No. 17957P2, Sheet 1 of 1 dated 25 July 2013 associated with Proposed Lot 72. The wording of the restriction shall state the following:-

- a) The vegetation within this area is to be retained in a natural state and protected from damaging activities.
- b) This area is to be permanently fenced to restrict unnecessary access. The fence is to be a permanent metal, see-through fence of rural character.
- c) No native vegetation is to be damaged in this area. No development, erection of structures, or other activities that may damage the vegetation such as grazing, agriculture, use of vehicles or establishment of tracks or paths is to occur within this protected area without the prior consent of Penrith City Council.
- d) This area is to be signposted using weatherproof sign stating the following: - "The vegetation beyond this point is ecologically important (including trees, shrubs and groundcovers). No native vegetation located within this protected area is to be damaged. No development, erection of structures, or other activities that may damage the vegetation such as grazing, agriculture, use of vehicles or establishment of tracks or paths is to occur within this protected area without the prior consent of Penrith City Council."
- e) For any development or activity that will adversely impact on the vegetation in this area, a new flora and fauna assessment will be required to be submitted with the Development Application and suitable offset measure proposed.

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

## Utility Services

14 Prior to the release of the linen plan, the following service authority clearances shall be obtained:

- A Section 73 Compliance Certificate under the Sydney Water Act 1994 shall be obtained from Sydney Water. This is required prior to the issue of the Subdivision Certificate and
- A letter from Integral Energy stating that satisfactory arrangements have been made for electricity supply to all proposed allotments in the subdivision, including any necessary easements; and
- A letter from an approved telecommunications service provider that satisfactory arrangements have been made for underground telephone services to all proposed allotments in the subdivision, including any necessary easements.

These clearances are to be submitted to the Principal Certifying Authority.

## Engineering

- 15 All roadworks, stormwater drainage works, associated civil works and dedications, required to effect the consented development shall be undertaken at no cost to Penrith City Council.
  
- 16 Prior to the issue of a Subdivision Certificate, the Principal Certifying Authority shall ensure that all subdivision works required by this consent have been satisfactorily completed or that suitable arrangements have been made with Penrith City Council for any outstanding works.

## Landscaping

- 17 No fill, machinery, or materials are to be placed or stored within the drip line of any tree that is to be retained. 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 as outlined in Australian Standard AS 4970-2009 'Protection of trees on development sites'.
  
- 18 No trees are to be removed, ringbarked, cut, topped or lopped or wilfully destroyed (other than those within the proposed building footprint or as shown on the approved plans) without the prior consent of Penrith City Council and in accordance with Council's Tree Preservation Order and Policy.

## Subdivision

- 19 The linen plan of subdivision is to be supported by an 88B instrument creating a Restriction as to User or easement regarding the following:
  - a) Easement for support-the provision of an easement of support to cover all embankments that extend into the lots if the batters are steeper than 5:1.
  - b) Residue Allotment - no development or building shall be allowed or be permitted to remain on the named lot unless satisfactory arrangements have been made with Penrith City Council for services (water, sewer, electricity and telephone), any outstanding contributions or consolidation with adjoining lots.
  - c) other

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

## Section 94

- 20 This condition is imposed in accordance with Penrith City Council's Section 7.11 Contributions Plan(s) for Cultural Facilities. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$507.00 is to be paid to Council prior to any Subdivision Certificate being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 7.11 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule. Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The Section 7.11 invoice accompanying this consent should accompany the contribution payment. The Section 7.11 Contributions Plan for Cultural Facilities may be inspected at Council's Civic Centre, 601 High Street, Penrith.
- 21 This condition is imposed in accordance with Penrith City Council's Section 7.11 Contributions Plan(s) for District Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$6,094.00 is to be paid to Council prior to any Subdivision Certificate being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 7.11 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule. Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The Section 7.11 invoice accompanying this consent should accompany the contribution payment. The Section 7.11 Contributions Plan for District Open Space may be inspected at Council's Civic Centre, 601 High Street, Penrith.
- 22 This condition is imposed in accordance with Penrith City Council's Section 7.11 Contributions Plan(s) for Local Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$2,204.00 is to be paid to Council prior to any Subdivision Certificate being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 7.11 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule. Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The Section 7.11 invoice accompanying this consent should accompany the contribution payment. The Section 7.11 Contributions Plan for Local Open Space may be inspected at Council's Civic Centre, 601 High Street, Penrith.

## Certification

- 23 A Subdivision Certificate is to be obtained prior to the release of the linen plan of subdivision. The Subdivision Certificate will not be issued if any of the conditions in this consent are outstanding.

## Operation of OSSM

- 24 Penrith City Council is both the consent authority and certifying authority for the installation of the On-Site Sewage Management System (OSSM) for the existing dwelling. **It is your responsibility to contact Council's Development Services Department to organise all inspections required for the installation of the system.**

In this regard, the septic tank(s) and disposal area(s) will need to be inspected on completion of the system's installation (before backfilling occurs) and prior to its commissioning, to ensure compliance with those conditions specific to the installation of the system.

A copy of the satisfactory inspection reports carried out by Council shall be submitted to the Principal Certifying Authority if Council is not the Principal Certifying Authority.

- 25 The septic tank, drainage and irrigation lines and effluent management area shall not be altered without the prior approval of Council. In addition, the septic tank shall not be buried or covered.
- 26 All house drainage and sanitary plumbing shall be carried out in accordance with the requirements of the Plumbing and Drainage Act 2011 and the Plumbing Code of Australia.
- 27 The design of the irrigation system for the effluent management area is to be such that:
- The distribution line is to be buried from the tank to the designated disposal area.
  - The moveable irrigation line and sprinklers (including the plume from the sprinklers) situated within the disposal area can not exceed the designated boundaries of the disposal area.
  - The treated wastewater can be evenly irrigated across the entire designated disposal area.
- 28 All irrigation pipework and fittings shall comply with AS2698 "Plastic Pipes and Fittings for Irrigation and Rural Applications". In this regard:
- the irrigation system is not to be connected to/not capable of connection to the mains water supply,
  - standard household fittings, soaker hoses, garden sprinklers and standard water hose fittings are not to be used,

### Surface -

- all distribution lines of the irrigation system to any standpipe shall be buried to a minimum 100mm below finished surface level,
- spray irrigation equipment connected to distribution lines shall be fixed, and
- spray irrigation shall only use low pressure, low volume spray heads which are not capable of producing aerosols. The spray shall have a maximum plume height 400mm and a plume radius of not more than 2 metres.

### Sub surface -

- **sub-surface drip irrigation lines are also to be installed in accordance with AS 1547:2012 and are to evenly distribute treated effluent over the designated disposal area, and**
- **all subsurface drip irrigation is to be buried within a minimum of 250mm of topsoil in accordance with AS 1547:2012. Mulch is not to be used as part of the minimum top soil requirement.**

- 29 There shall be no effluent runoff from the subject property to adjoining premises, public places or reserves.
- 30 A minimum of two signs shall be erected within the effluent management area. These signs are to state

“RECLAIMED EFFLUENT - NOT FOR DRINKING - AVOID CONTACT”. The signage shall be maintained for the term of the development.

31 The owner/occupier shall enter into an annual service contract with the manufacturer, distributor or other person authorised (in writing) by Penrith City Council to service the aerated septic tank(s) every three (3) months from the date of commissioning in the following manner:

i. A three monthly service shall include a check on all mechanical, electrical and functioning parts of the aerated system including:

- the chlorinator,
- replenishment of the disinfectant,
- the UV disinfection unit,
- all pumps and switches,
- the air blower, fan or air venturi,
- the alarm system,
- the effluent disposal area and irrigation spray outlets / sub-surface irrigation lines and filters,
- the slime growth on the filter media, and
- the operation of the sludge returns system.

ii. The following field tests are to be carried out at every service:

- free residual chlorine using DPD colorimetric or photometric method,
- pH from a sample taken from the irrigation chamber,
- dissolved oxygen from a sample taken from the final aeration or stilling chamber (although recommended) is optional.

iii. On the yearly anniversary date of the commissioning of the system, an annual service of the system shall also be carried out which includes a check on the sludge accumulation in the septic tank (primary treatment tank) and the clarifier, where appropriate.

iv. For systems which utilise the sewage treatment principle of activated sludge or contact aeration, a sludge bulking test, known as a SV30 Test, shall also be conducted on an annual basis. This test is to determine whether the accumulated sludge is bulking, indicating that the aeration compartment(s) will require desludging.

v. On completion of each service, a service report sheet is to specify all service items and test results, the amount of chlorine compound provided, parts replaced (if applicable), the date the service was conducted and the technician's name. A copy of the service report is to be:

- given to the property owner and another to the applicant (if not the same), and
- forwarded to Penrith City Council.

Each service agent shall provide a registered business office which, if unattended during business hours, is provided with a telephone answering device or service. A means of reporting a malfunction or breakdown outside normal business hours shall be available. In the event of a breakdown or malfunction, the service agent shall, within 24 hours of the breakdown or malfunction, ensure that temporary repairs are carried out to the aerated system to ensure continued operation of the system. This may necessitate provision of adequate spare parts and temporary replacement blowers and irrigation pumps where repairs cannot be completed on site.

32 The contents of the existing septic tank are to be removed by a licensed waste contractor and deposited to an approved waste facility. The disconnected tank shall be removed, demolished or filled with clean soil and garden lime. Documentation of the collection and disposal of waste are to be retained and provided to Council on request.

33 The effluent management area is to be turfed to the satisfaction of Council. Where a specific variety of turf is

identified in the approved Wastewater Report that variety is to be installed and maintained.

- 34 No concreting, driveways, vehicles or any other structure or access way is to be located over any portion of the effluent management area.
- 35 All stormwater and seepage shall be diverted away from the septic tank and the disposal area by using an agricultural drain or earthen bund and dish drain.
- 36 Orchards, vegetable gardens or any other plant species that can be used for the purposes of human consumption are not to be planted within the effluent management area. Effluent from the on-site sewage management system is not to be used on fruit or vegetables grown for human consumption.
- 37 The effluent management area shall be protected from possible stock damage.
- 38 No wastewater associated with the on-site sewage management system is to be applied or irrigated within the drip line of any native trees within the effluent management area.  
It is the responsibility of the applicant to ensure the ongoing health of the trees in relation to the effluent management area.
- 39 The on-site sewage management (OSSM) system and effluent management area for the existing residence on Lot 72 shall be installed and operated in accordance with the:
  - “Environmental and Health Protection Guidelines On Site Sewage Management for Single Households”
  - Australian Standards AS1547:2012,
  - Council’s On-Site Sewage Management and Greywater Reuse Policy,
  - current (at the time of installation) NSW Health Accreditation documentation,
  - the Wastewater Report, prepared by Cohesive Planning dated February 2018,
  - And, the conditions of this consent.

**Prior to the installation of the OSSM system, a site plan showing the proposed location of the AWTS and effluent management area depicting site features and setbacks is to be submitted to Penrith City Council for approval. The NSW Health Certificate of Accreditation for the chosen AWTS is to be submitted at this time.**

**Prior to the issue of the ‘Approval to Operate’, a Commissioning Certificate for the OSSM system shall be provided to Penrith City Council for approval.** This Certificate shall certify that the aerated wastewater treatment system (AWTS) has been installed and is operating in accordance with the conditions of its NSW Health accreditation documentation.

**Prior to the issue of the Subdivision Certificate and before the OSSM system can be used, an ‘Approval to Operate’ for the OSSM system is to be sought from and issued by Penrith City Council.**

## SIGNATURE

Name:	James Heathcote
Signature:	

For the Development Services Manager