

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA20/0797
Description of development:	Demolition of Existing Structures & Torrens Title Subdivision x 2 Lots
Classification of development:	N/A

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 114 DP 1687
Property address:	49 Gibbes Street, REGENTVILLE NSW 2745

DETAILS OF THE APPLICANT

Name & Address:	Vms Survey 75-77 Union Road PENRITH NSW 2750
-----------------	--

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	28 June 2021
Date the consent expires	28 June 2026
Date of this decision	24 June 2021

POINT OF CONTACT

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

Assessing Officer:	Jacqueline Klincke
Contact telephone number:	+612 4732 8391

NOTES

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 twelve 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 twelve 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 56 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 56 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.

ATTACHMENT 1: CONDITIONS OF CONSENT

General

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

Drawing Title	Drawing Number	Revision	Prepared By	Dated
Plan of Proposed Subdivision	23391P	-	Vince Morgan Surveyors	12.11.20

- Detailed Site Investigation, prepared by ECON Environmental, Document No. 21-1149, revision A, dated 3/5/2021
- Hazardous Material Assessment, prepared by ECON Environmental, Document No. 21-1149HAZ, revision A, dated 3/5/2021

Demolition

- 2 **Prior to the issue of a Subdivision Certificate**, all buildings and structures on the site shall be demolished and all demolition works shall be satisfactorily completed.
- 3 All demolition works are to be conducted in accordance with the provisions of AS 2601-2001 "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**.

- 4 **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.

Demolition works are to be carried out in accordance with the recommendations of the Hazardous Building Materials Assessment prepared by Econ Environmental Pty Ltd (Ref: 21-1149HAZ) dated 3 May 2021.

At the completion of demolition works, the applicant is to submit to Council a report demonstrating that the hazardous building materials identified in the Hazardous Building Materials Assessment have been removed and disposed of at a lawful waste facility.

All asbestos laden waste, including asbestos cement flat and corrugated sheeting, must be disposed of at a tipping facility licensed by the Environment Protection Authority to receive asbestos wastes.

- 5 Dust suppression techniques are to be employed during demolition to reduce any potential nuisances to surrounding properties.
- 6 Mud and soil from vehicular movements to and from the site must not be deposited on the road.
- 7 Demolition and subdivision works shall 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 work relates to works inside the building and does not involve external walls or the roof, and does not involve the use of equipment that emits noise, then the 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.

- 8 Regulatory obligations (including licensing and notification requirements) for the management, control and removal of asbestos are prescribed in the:
 - Work Health and Safety Act 2011
 - Work Health and Safety Regulation 2017
 - SafeWork NSW Code of Practice How to Manage and Control Asbestos in the Workplace August 2019
 - SafeWork NSW Code of Practice How to Safely Remove Asbestos August 2019
 - Australian Standard AS2601

Compliance with the above legislation is required and reference should be made to SafeWork NSW and to the *Asbestos Policy Penrith City Council 2014*.

Heritage/Archaeological relics

- 9 If any archaeological relics are uncovered during the course of the work, no further work shall be undertaken until further directed by Penrith City Council or the NSW Heritage Office.

The applicant is advised that depending on the possible significance of the relics, an archaeological assessment and an excavation permit under the *Heritage Act 1977* may be required before any further work can be recommenced in that area of the site.

Environmental Matters

- 10 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 approved sediment and erosion control measures are to be maintained until the land, that was subject to the works, has been stabilised and grass cover established.

- 11 No fill material shall be imported to the site until such time as a certificate demonstrating that the material is suitable has been submitted to, considered and approved by Council. This certificate may be in the form of a validation certificate, waste classification, or appropriate resource recovery order/exemption. A copy of a report forming the basis for the validation is also to be provided. The certificate shall:
- be prepared by an appropriately qualified person with consideration of all relevant guidelines, standards, planning instruments and legislation (e.g. EPA, NEPM, ANZECC, NH&MRC),
 - clearly state the legal property description of the fill material source site and the total amount of fill tested,
 - 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 NSW Environment Protection Authority's "Waste Classification Guidelines" 2014, 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.

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 work may be requested. In these circumstances the works shall be carried out prior to any further approved works.

Note: An appropriately qualified person is defined as "a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, ecotoxicology, 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."

- 12 All demolition and other waste materials associated with the subdivision works and that are 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 area(s) shall to be fully enclosed when the site is unattended.
- 13 All excavated material and other wastes generated as a result of the development 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 Subdivision 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.

- 14 The operating noise level of plant and equipment 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.
- 15 Only clean and unpolluted water is to be discharged into Penrith City Council's stormwater drainage system. Liquid wastes suitable for discharge to the mains sewer are to be discharged in accordance with Sydney Water requirements.

If mains sewer is not available or if Sydney Water will not allow disposal to the sewer, then a licensed waste contractor is to remove the liquid waste from the premises to an appropriate waste facility.

The waste contractor and waste facility are to hold the relevant licenses issued by the NSW Environment Protection Authority.

- 16 Should any "unexpected finds" occur during site demolition and earthworks, including but not limited to, the identification/finding of contaminated soils, buried building materials, asbestos, odour and/or staining, works are to cease immediately and Penrith City Council is to be notified. Any such, "unexpected finds" shall be addressed by an appropriately qualified environmental person/consultant.

All remediation works within the Penrith Local Government Area are Category 1 works under State Environmental Planning Policy No. 55 - Remediation of Land. Should any contamination be found during development works and should remediation works be required, development consent is to be sought from Penrith City Council before the remediation works commence.

Note: For the purpose of this condition, an appropriately qualified person is defined 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."

Utility Services

- 17 **Prior to the issue of a Subdivision Certificate**, the following service authority clearances shall be obtained and provided to the Principal Certifying Authority:
- a Section 73 Compliance Certificate under the *Sydney Water Act 1994* shall be obtained from Sydney Water;
 - a certificate from Endeavour Energy stating that satisfactory arrangements have been made for electricity supply to all proposed allotments in the subdivision, including any necessary easements; and
 - a certificate 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.

18 **Prior to the issue of a Subdivision Certificate**, the Principal Certifying Authority shall be satisfied that telecommunications infrastructure may be installed to service the premises which complies with the following:

- The requirements of the *Telecommunications Act 1997*;
- For a fibre ready facility, the NBN Co's standard specifications current at the time of installation; and
- For a line that is to connect a lot to telecommunications infrastructure external to the premises, the line shall be located underground.

Unless otherwise stipulated by telecommunications legislation at the time of construction, the development must be provided with all necessary pits and pipes, and conduits to accommodate the future connection of optic fibre technology telecommunications.

Prior to the issue of a Subdivision Certificate, written certification from all relevant service providers that the telecommunications infrastructure is installed in accordance with the requirements above and the applicable legislation at the time of construction, must be submitted to the Principal Certifying Authority.

Engineering

19 An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Penrith City Council's Public Infrastructure Assets. The bond is to be lodged with Penrith City Council prior to commencement of any works on site or prior to the issue of any Construction Certificate or Subdivision Works Certificate, whichever occurs first. The bond and applicable fees are in accordance with Council's adopted Fees and Charges.

An application form together with an information sheet and conditions are available on Council's website.

Contact Penrith City Council's Asset Management Department on 4732 7777 or visit Penrith City Council's website for more information.

20 Work on the subdivision shall not commence until:

- a Subdivision Works Certificate (if required) has been issued;
- a Certifier has been appointed for the project, and;
- any other matters prescribed in the development consent for the subdivision and the Environmental Planning and Assessment Act and Regulation have been satisfied.

A Notice of Commencement of works is to be submitted to Penrith City Council five (5) days prior to commencement of any engineering works or clearing associated with the subdivision.

21 Soil testing is to be carried out to enable each lot to be classified according to AS 2870 Residential Slabs and Footings. The results shall be submitted to Penrith City Council **prior to the issue of any Subdivision Certificate**.

22 **Prior to the issue of any Subdivision Certificate**, the Principal Certifier shall ensure that any subdivision

works required by this consent have been satisfactorily completed.

Landscaping

- 23 All trees on site are required to be retained as part of the subdivision and are to be protected in accordance with the minimum tree protection standards prescribed in the *Penrith Development Control Plan 2014*.
- 24 No trees are to be removed, ringbarked, cut, topped or lopped or willfully destroyed during demolition and subdivision works without the prior consent of Penrith City Council and in accordance with Council's Tree Preservation Order and Policy.

Subdivision

25 **Prior to the issue of a Subdivision Certificate**, the following is to be submitted:

(a) An original plan of subdivision and associated administration sheets. The plan of subdivision must indicate, where relevant:

- All drainage easements, rights of way, restrictions and covenants.
- All proposed dedications of roads/drainage/public reserve, which are to be undertaken at no cost to Penrith City Council.

(b) The following information is to be shown on one (1) copy of the plan:

- The location of all buildings and/or other permanent improvements shall comply with any statutory boundary clearances or setbacks as defined by the Building Code of Australia and Council's resolutions.
- All existing services are wholly contained within the lot served and/or covered by an appropriate easement.

Prior to lodgement of the Subdivision Certificate application, street address numbering must be obtained/approved by Penrith City Council's Rates Team. Proposed street addresses can be forwarded to council@penrith.city for approval.

- 26 A Surveyor's Certificate is to be lodged with the application for a Subdivision Certificate that certifies that all pipes and services are located wholly within the property or within appropriate easements and that no services encroach boundaries.

Section 94

27 This condition is imposed in accordance with Penrith City Council's Section 7.11 Contributions Plan for Cultural Facilities. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$570.00 is to be paid to Council prior to a Subdivision Certificate being issued for this development** (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 7.11 Contributions 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.

28 This condition is imposed in accordance with Penrith City Council's Section 7.11 Contributions Plan for District Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$6,376.00 is to be paid to Council prior to a Subdivision Certificate being issued for this development** (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 7.11 Contributions 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.

29 This condition is imposed in accordance with Penrith City Council's Section 7.11 Contributions Plan for Local Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$2,305.00 is to be paid to Council prior to a Subdivision Certificate being issued for this development** (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 7.11 Contributions 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

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

SIGNATURE

Name:	Jacqueline Klincke
Signature:	

For the Development Services Manager