



Penrith Local Planning Panel

Determination and Statement of Reasons

APPLICATION NUMBER	DA17/1157
DATE OF DETERMINATION	12 September 2018
PANEL MEMBERS	Jason Perica (Chair) Christopher Hallam (Expert) Geoff Martin (Community Representative)
APOLOGY	Mary-Lynne Taylor (Expert)
DECLARATIONS OF INTEREST	No conflicts of interest were declared
LISTED SPEAKER(S)	N/A

Public Meeting held at Penrith City Council on Wednesday 12 September 2018, opened at 5:00pm

Matter Determined pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979

Development Application DA17/1157 at 20 Weema Street, Caddens & 185 - 207 Caddens Road, Caddens – Demolition of Existing Structures and Torrens Title Subdivision x 46 Residential Lots and Associated Civil Works, Landscaping & Public Roads.

Panel Consideration/Reasons for the Decision

The Panel had regard to the assessment report prepared by Council officers, a supplementary memorandum dated 12 September 2018 and verbal advice from Council staff prior to the meeting. This advice addressed questions raised by the Panel relating to road widths, lot size, staging, cut and fill, bushfire planning requirements and recommended conditions of consent.

The proposed variation to the minimum lot size requirements within Clause 7.10 of Penrith LEP 2010, being the “trigger” for the matter being reported to the Panel, was considered by the Panel having regard to the objectives of the zone and the provisions outlined within Penrith Development Control Plan 2014, specifically Chapter E1 – Caddens Precinct.

It was noted that the DCP provisions provide for a variety of lot sizes and development typologies within the northern part of the site which is the subject of this development application. Notwithstanding the LEP lot size requirements, the DCP does depict that the northern part of the land subject of this application can provide for detached, semi-detached and built to boundary typologies which under the DCP provisions, can be accommodated on lots less than 450sqm. This would suggest that there is a potential discrepancy between the

development capability foreshadowed within the DCP and the development standards within the LEP relating to minimum lot size in this location. Nonetheless the LEP provisions take precedence over the DCP and warrant specific consideration of the applicants submitted 4.6 request to vary the lot size development standard.

While the justification outlined within the applications submission and the assessment report prepared by Council officers is generally agreed with, the Panel considers that the request to vary proposed Lots 729 – 732 as indicated on the proposed plan of subdivision is not a suitable outcome. It was considered that a reduction of one (1) allotment in this location would ensure that, while a variation to the lot size requirement would remain, the increased size of the allotments as a result of the amendment will better comply with the provisions within the DCP. The recommended amendment will also ensure that a more consistent subdivision pattern and streetscape presentation will be provided for on both the western and eastern sides of Avium Drive. This will also improve solar access opportunities given the east / west allotment orientation. Subject to a condition of consent for this amendment prior to the issue of a subdivision certificate, the resulting request to vary the minimum lot size requirement for these allotments was considered sound and supportable.

With respect to Lots 707 – 711, it was noted that the LEP provisions regarding minimum lot size relate to Lots 709 – 711 with lots 706 – 708 having no lot size requirement under the LEP provisions. Nonetheless, it was considered that a more appropriate outcome would be to realign the internal dividing boundary lines between the allotments to better integrate with the approved subdivision pattern to the immediate north. In this regard, the boundary between Proposed Lots 709 and 710 with respect to Lot 414 and 415 (to the north) and the boundary between Lots 710 and 711 with respect to Lots 415 and 416 (to the north) is to be better rationalised. This will also enable an increase to the lot size of proposed Lot 711 which would also provide an improved development capability for this proposed lot.

The Panel was therefore satisfied under Clause 4.6(3) and (4) that the applicant's written request demonstrated that compliance with the LEP lot size requirements was unnecessary or unreasonable in the circumstances of this case, and that there were sufficient environmental planning grounds to justify the non-compliance subject to the recommended amendments outlined above, which include a realignment of lot boundaries and a reduction in overall yield by one (1) allotment.

The other key planning considerations outlined within Clause 4.15 of the Environmental Planning and Assessment Act 1979 regarding site suitability, likely impacts, submissions and the public interest have otherwise been suitably addressed within the assessment report and it was considered that the proposed development is appropriate and supportable having regard to those key considerations.

In terms of considering community views, the Panel noted there was a submission received to the proposal with a subsequent email received from the submitter following advice of this Panel Meeting. This further advice indicated that no objections were raised subject to the consideration of the issues raised being considered. The issues raised within the submission are considered to have been suitably addressed within the assessment report, with recommended conditions of consent to address key environmental considerations, such as dust management, throughout the course of the development.

Panel Decision

Pursuant to the provisions of Section 4.16 of the Environmental Planning and Assessment Act, 1979, Development Application DA17/1157 for Demolition of Existing Structures and Torrens Title Subdivision x 46 Residential Lots and Associated Civil Works, Landscaping &

Public Roads be approved subject to the addition of a condition of consent that reflects the above required amendments, the conditions of consent recommended within in the Council staff assessment report to the Local Planning Panel meeting of Wednesday 12 September 2018 and amendment to conditions as outlined within the supplementary memorandum dated 12 September 2018.

In this regard the following amendments to conditions are to be incorporated into the notice of determination: -

1. Condition No. 3 is to be amended to incorporate the following specific requirements of the NSW Rural Fire Service:
 - a) *Water, electricity and gas are to comply with Section 4.1.3 of Planning for Bush Fire Protection 2006.*
 - b) *Public road access shall comply*
2. A new condition be added as follows:-

“Prior to the issue of a subdivision certificate, the following amendments to the plan of subdivision are required:-

- a) Proposed lots 729 – 732 are to be amended / consolidated into three (3) x allotments of no less than 350sqm
 - b) Proposed Lots 707 – 711 are to be revised to better align dividing boundaries having regard to the northern subdivision pattern and increase the lot size of Proposed Lot 711.
3. Condition No. 7 be **deleted** as it is a duplicate condition.

Votes

The decision was unanimous.

Jason Perica – Chair Person <i>Statement endorsed under separate email.</i>	Christopher Hallam – Expert <i>Statement endorsed under separate email.</i>
Geoff Martin – Community Representative <i>Statement endorsed under separate email.</i>	

MEMORANDUM

Reference: DA17/1157

To: Penrith City Council Local Planning Panel

From: Jane Hetherington, Senior Development Assessment Planner

Date: 12 September 2018


Subject: **Demolition of Existing Structures and Torrens Title Subdivision x 46 Residential Lots and Associated Civil Works, Landscaping & Public Roads at 20 Weema Street Caddens & 185 - 207 Caddens Road, Caddens**

I refer to the above matter scheduled for determination with the Penrith City Council Local Planning Panel on Wednesday 12 September 2018 and an email from the Penrith Local Planning Panel Chairperson dated 11 September 2018 and provide the following clarification on the matter/recommend the following;

LPP comment	Assessment Officer Comment
Road width	Road 18 is 16m wide which allows for 8m wide carriage way and a 4m wide verge on either side. This is consistent with the requirements of Penrith DCP and roads within the rest of the Caddens Precinct. Council's Development Engineers have confirmed that this will allow for parking on either side of the road without impacting on traffic flow.
Average lot area	The average lot area is 470.33m ² .
staging/previous staged approval and DCP controls	DA15/0992 – Stage 1 (99 Lots) – Court approved DA16/1166 – Stages 2, 3 & 4 (257 Lots) – approved by JRPP DA17/0099 – Stages 5 & 6 (183 Lots) The development site is located within the Caddens Release Area which has a specific chapter (<i>E1 Caddens</i>) in Penrith Development Control Plan 2014. This chapter includes minimum lot dimensions for various dwelling typologies.
Cut and Fill	Council's Development Engineers have confirmed that the development will result in 1,368m ³ of excavated material. 33,807m ³ of cut was originally proposed however, has been reduced to 29,390m ³ . The proposed earthworks allows the Stage 7 subdivision (which is the final stage by the developer, LegPro) to integrate with existing levels of earlier stages. A condition of consent requires that all excavated materials which are not reused onsite are to be lawfully transported and disposed of at a lawful waste facility unless outlined by the remediation action plan.

MEMORANDUM

APZ's	The supporting Bushfire Protection Assessment confirms that Caddens Road (directly south of the development) provides the required APZ.
Conditions	<p>a. Can RFS conditions be part of consent – Condition 3 to be amended to incorporate RFS conditions:</p> <p>a) <i>Water, electricity and gas are to comply with Section 4.1.3 of Planning for Bush Fire Protection 2006.</i></p> <p>b) <i>Public road access shall comply</i></p> <p>b. Intend to approve envelope plans? It is not intended to approve the building envelope plan - Building envelopes were only provided on a few constrained lots to demonstrate that a compliant dwelling could be provided.</p> <p>c. Dust condition (17) – should it be reviewed after a period, should measures be oked by Council? Given that Council will be certifying authority, this aspect of the development will be managed by Council.</p> <p>d. Cond 7 and 26 different or same? Condition 7 to be deleted.</p>



Jane Hetherington
Senior Development Assessment Planner