



# Penrith Local Planning Panel

## Determination and Statement of Reasons

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| <b>APPLICATION NUMBER</b>       | DA18/0429  |
| <b>DATE OF DETERMINATION</b>    | 12 September 2018  |
| <b>PANEL MEMBERS</b>            | Jason Perica (Chair)<br>Christopher Hallam (Expert)<br>Geoff Martin (Community Representative) |
| <b>APOLOGY</b>                  | Mary-Lynne Taylor (Expert)   |
| <b>DECLARATIONS OF INTEREST</b> | No conflicts of interest were declared.  |
| <b>LISTED SPEAKER(S)</b>        | 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 DA18/0429 at Lot B DP 388896 60 – 64 Bonner Road, Agnes Banks – Torrens Title Subdivision x 2 Lots.

### **Panel Consideration/Reasons for the Decision**

The Panel had regard to the assessment report prepared by Council officers and 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 Sydney Water servicing potential, recommended conditions of consent, tree removal and effluent management.

The Panel generally agreed with the balance of environmental considerations outlined within the Council staff report.

With respect to the proposed variation to the minimum lot size for dual occupancy development within Clause 7.10 of Penrith LEP 2010, being the “trigger” for the matter being reported to the Panel, it was considered that there was a sound basis on which to conclude a variation to the standard could be supported for the site (for reasons within the Council staff report). The Panel was satisfied under Clause 4.6(3) and (4) that the applicant’s written request demonstrated that compliance was unnecessary or unreasonable in the

circumstances of this case, and that there were sufficient environmental planning grounds to justify the non-compliance.

The key planning considerations outlined within Clause 4.15 of the Environmental Planning and Assessment Act regarding site suitability, likely impacts and the public interest have 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 were no submissions received from the public notification of the Development Application.

As a result, the recommendation for approval was considered to be supportable for the following reasons;

1. It represents a form of development that is consistent with the low density rural residential character of the area.
2. The form of development is appropriate in the zone
3. The proposal satisfies the objectives of clause 7.10 of Penrith LEP
4. The variation of the minimum lot size provisions for dual occupancy development has been justified by way of a clause 4.6 variation submission

### **Panel Decision**

Pursuant to the provisions of Section 4.16 of the Environmental Planning and Assessment Act, 1979, Development Application DA18/0429 for Torrens Title Subdivision x 2 Lots be approved subject to the conditions in the Council staff assessment report to the Local Planning Panel meeting of Wednesday 12 September 2018 as amended by way of supplementary memorandum dated 12 September 2018.

### **Votes**

The decision was unanimous.

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

# MEMORANDUM

Reference: DA18/0429

To: Penrith City Council Local Planning Panel

From: James Heathcote, Development Assessment Planner

Date: 12 September 2018

Subject: **Torrens Title Subdivision x 2 Lots at 60 – 64 Bonner Road, Agnes Banks**

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   |
|------------------|--|
| Sewer Connection | <p>1. Referral was made to Sydney water who stated that:<br/>           “There is no Sydney Water wastewater supply available for the subdivision lots as the development is located outside of the Agnes Banks Priority Sewerage Program (PSP) Scheme area. Agnes banks PSP has no capacity to service any lots outside of its catchment (refer to the attached PSP catchment boundary). The proponent will need to manage their wastewater service independently”.</p> <p>Although the subject site is adjacent to the Sydney Water Agnes Banks PSP scheme area, Sydney Water have confirmed there is no capacity for the subject site.</p>  |
| Tree Retention   | <p>The 10/50 Vegetation Clearing Scheme provides residents living near bush land, in designated areas, to:</p> <ul style="list-style-type: none"> <li>• Clear trees on their property within 10m of their home, without seeking approval.</li> <li>• Clear underlying vegetation such as shrubs (but not trees) on their property within 50 metres of a home, without seeking approval.</li> </ul> <p>Tree removal for the proposed building envelope and APZ requirements includes the removal of 20 trees, noted as relatively young.</p> <p>A condition of consent is recommended to clarify tree retention and removal to Council’s satisfaction prior to the issue of a Subdivision Certificate (Refer to Condition 14).</p> <p>Condition 20 has also been imposed that prior to the issue of subdivision certificate, a total of 30 trees are to be planted on site to replace the trees that are proposed to be removed to facilitate the development (approx. 2:1 ratio). Similar tree species to the site are to be selected. Additionally, all trees must be planted more than 20m from the existing dwelling and must be maintained (and replaced where losses occur) for a period of 3 years or until they reach a height of 4 metres.</p> |

## MEMORANDUM

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|                                  | <p>The tree retention as a consequence of the amended proposal has been assessed by Council's Biodiversity Officer and has been deemed suitable subject to conditions. The implications of understorey clearing potential under the 10/50 rule does not alter this support subject to conditioned re-planting of 2-1 replacement densities.</p> <p>*It is noted that the 10/50 scheme only applies once the building is approved and inhabited. Conditions of approval override this scheme and the scheme does not apply to critically endangered species.</p> <p>As such, the distance of future planting means that vegetation will be retained on site.</p>   |
| Post Development Water Treatment | <p>4. With regard of the statement that "post development water treatment will be better than pre/existing situation".</p> <p>The proposed OSSM system for the site is as follows:</p> <ul style="list-style-type: none"> <li>Proposed lot 2 will involve the continued use of existing septic tanks and associated trenches. The existing system has the capacity to treat wastewater from both dwellings.</li> <li>Proposed lot 1 will involve the installation of a NSW Health Accredited aerated wastewater treatment system with a capacity to service a future dwelling (represented by the proposed building envelope) and gave options for irrigation. Referral made to Council's Environment team had no objections subject to the proposed OSSM system to utilise the subsurface disposal of wastewater. To ensure this occurs in future, an 88B instrument is to be registered against proposed lot 1 that stipulates the effluent disposal to be restricted to subsurface, due to close proximity to sensitive receivers. The instrument will also stipulate that at the time of any future development, a new wastewater report is required to be submitted to Council for approval.</li> </ul> <p>While the Clause 4.6 justification suggests an improved efficiency for the existing system in itself is not necessarily accurate. However, acceptance of the 4.6 justification is not dependent on this aspect as the existing system is compliant with Council's requirements. The reasons for variation support are outlined in the assessment report which relate to the objectives of the zone, the lot size provisions for subdivision and consideration of local character.</p> |
| Roadworks                        | <p>No public road works are proposed.</p> <p>The proposal is conditioned to have the existing driveway that runs through proposed lot 1 upgraded to include:</p> <ul style="list-style-type: none"> <li>Widened to a minimum of 4m wide in accordance with the requirements of the Rural Fire Service.</li> </ul>   |

# MEMORANDUM

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|            | <ul style="list-style-type: none"> <li>• Provision of a passing bay within the vicinity of the southern side of the proposed building envelope of proposed lot 1. The passing bay shall be a minimum of 2m wide for a distance of 6m and shall include 2m tapers at each end.</li> <li>• Sealed from Bonner Road through to the boundary of proposed lot 2.</li> </ul> <p>In addition, condition 11 has been recommended to ensure that these upgrade works are undertaken at no cost to Council.</p>  |
| Conditions | <p>Condition 16 recommends that the linen plan of subdivision be supported by an 88B instrument creating a restriction to the land that effluent disposal is to be restricted to subsurface irrigation disposal. Additionally, at the time of any future development, a new wastewater report is required to be submitted to Council for approval.</p> <p>Condition 16 is recommended for amendment that any future dwelling upon proposed lot 1 shall be within the envelope as per the Plan of Detail Survey, numbered 36 031 PPD SUB and dated 04/08/17, revision 04.</p> <p>This envelope location should be conditioned as such to maintain compliance regarding tree retention, OSSM systems, driveway-right of carriageway location, flooding requirements and amenity of the proposed dwelling.</p> <p><b>a. Conditions 8 and 14 – rationalise?</b></p> <p>Condition No. 14 is recommended to be deleted as a duplicate of condition 8 requirements.</p> |



James Heathcote  
Development Assessment Planner