

PLANNING CERTIFICATE UNDER SECTION 10.7
Environmental Planning and Assessment Act, 1979

Property No: 795783
Your Reference: Wilson
Contact No:

Issue Date: 18 March 2021
Certificate No: 21/01363

Issued to: Beechwood Homes
PO Box 6567
WETHERILL PARK NSW 2164

PRECINCT 030

DESCRIPTION OF LAND

County: CUMBERLAND

Parish: LONDONDERRY

Location: 4 Navy Road JORDAN SPRINGS NSW 2747

Land Description: Lot 1259 DP 1215095

- PART 1 PRESCRIBED MATTERS -

In accordance with the provisions of Section 10.7(2) of the Act the following information is furnished in respect of the abovementioned land:

1 NAMES OF RELEVANT PLANNING INSTRUMENTS AND DCPs

1(1) The name of each environmental planning instrument that applies to the carrying out of development on the land:

Penrith Local Environmental Plan 1991 (Environmental Heritage Conservation), gazetted 20 December 1991, as amended, applies to the land.

Penrith Local Environmental Plan No. 255 - Exempt and Complying Development, gazetted 24 March 2000, as amended, applies to land within the City of Penrith. (Note: This plan does not apply to the land to which Sydney Regional Environmental Plan No.30 - St Marys applies, except as provided by clause 43 of SREP No. 30 - St Marys.)

Penrith Local Environmental Plan No. 258 - Consent for Dwelling Houses and Other Development, gazetted 29 June 2001, applies to the land.

Sydney Regional Environmental Plan No.9 - Extractive Industry (No.2), gazetted 15 September 1995, as amended, applies to the local government area of Penrith.

Sydney Regional Environmental Plan No. 20 - Hawkesbury-Nepean River (No. 2 - 1997), gazetted 7 November 1997, as amended, applies to the local government area of Penrith (except land to which State Environmental Planning Policy (Penrith Lakes Scheme) 1989 applies).

Sydney Regional Environmental Plan No.30 - St Marys, gazetted 19 January 2001, as amended, applies to the land.

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Under the terms of Sydney Regional Environmental Plan No 30 - St Marys the land is zoned **Urban zone**

- (1) The objectives of the Urban zone are:
 - (a) to ensure that buildings and works within the zone are primarily used for residential purposes and associated facilities, and
 - (b) to limit the range and scale of non-residential uses to ensure that they are compatible with residential amenity and primarily serve local residents, and
 - (c) to provide for local retailing and related services, including supermarkets, which will complement established centres in the Blacktown City and Penrith City local government areas and not have a significant adverse effect on the viability of established retail centres, and
 - (d) to provide for medium density residential development in locations which provide optimum access to employment, public transport and services, while ensuring residential amenity, and
 - (e) to promote home based industries where such activities are unlikely to adversely affect the living environment of neighbours, and
 - (f) to ensure that development adjacent to the Regional Park zone does not have a negative impact on biodiversity or conservation within that zone.
- (2) In the Urban zone:
 - (a) development for the purpose of the following is allowed with the consent of the consent authority:
advertisements, amusement centres, backpackers' hostels, bed and breakfast establishments, boarding houses, bush fire hazard reduction, Centre-based child care facilities, clubs, community facilities, drains, educational establishments, essential community services, exhibition homes, exhibition villages, fast food take-away restaurants, flood mitigation works, general stores, guesthouses, home activities, home businesses, hospitals, hotels, housing, local retail or commercial premises, medical centres, motels, nursing homes, parks, places of assembly, places of worship, professional consulting rooms, public buildings, recreation establishments, recreation facilities, regeneration activities, restaurants, retail plant nurseries, roads, service stations, shops.
 - (b) any other development (except that identified by this plan as exempt or complying) is prohibited.

The following State environmental planning policies apply to the land (subject to the exclusions noted below):

State Environmental Planning Policy No.19 - Bushland in Urban Areas. (Note: This policy does not apply to certain land referred to in the National Parks and Wildlife Act 1974 and the Forestry Act 1916.)

State Environmental Planning Policy No.21 - Caravan Parks.

State Environmental Planning Policy No.33 - Hazardous and Offensive Development.

State Environmental Planning Policy No.50 - Canal Estate Development. (Note: This policy does not apply to the land to which State Environmental Planning Policy (Penrith Lakes Scheme) 1989 applies.

State Environmental Planning Policy No.55 - Remediation of Land.

State Environmental Planning Policy No.64 - Advertising and Signage.

State Environmental Planning Policy No.65 - Design Quality of Residential Apartment Development.

State Environmental Planning Policy No.70 - Affordable Housing (Revised Schemes).

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (Note: This policy applies to land within New South Wales that is land zoned primarily for urban purposes or land that adjoins land zoned primarily for urban purposes, but only as detailed in clause 4, 4A and 4B of the policy.)

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State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.
State Environmental Planning Policy (State Significant Precincts) 2005.
State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007.
State Environmental Planning Policy (Infrastructure) 2007.
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.
State Environmental Planning Policy (Affordable Rental Housing) 2009.
State Environmental Planning Policy (State and Regional Development) 2011.
State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017.
State Environmental Planning Policy (Educational Establishments and Child Care Centre Facilities) 2017.
State Environmental Planning Policy (Primary Production and Rural Development) 2019.
State Environmental Planning Policy (Western Sydney Aerotropolis) 2020.

1(2) The name of each proposed environmental planning instrument that will apply to the carrying out of development on the land and that is or has been the subject of community consultation or on public exhibition under the Act:

(Information is provided in this section only if a proposed environmental planning instrument that is or has been the subject of community consultation or on public exhibition under the Act will apply to the carrying out of development on the land.)

Draft State Environmental Planning Policy (Environment) applies to the land.

Draft State Environmental Planning Policy (Remediation of Land) applies to the land.

Draft State Environmental Planning Policy (Housing Diversity) 2020 applies to the land.

Draft State Environmental Planning Policy (Cumberland Plain Conservation) applies to the land.

Draft State Environmental Planning Policy (Infrastructure) 2007 applies to the land.

Draft State Environmental Planning Policy (Educational Establishments and Child Care Centre Facilities) 2017 applies to the land.

Draft State Environmental Planning Policy (Design and Place) applies to the land.

Draft State Environmental Planning Policy (Primary Production and Rural Development) 2019 applies to the land.

Draft State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 applies to the land.

1(3) The name of each development control plan that applies to the carrying out of development on the land:

Penrith Development Control Plan 2014 applies to the land.

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2 ZONING AND LAND USE UNDER RELEVANT LEPs

For each environmental planning instrument or proposed instrument referred to in clause 1 (other than a SEPP or proposed SEPP) that includes the land in any zone (however described):

2(a)-(d) the identity of the zone; the purposes that may be carried out without development consent; the purposes that may not be carried out except with development consent; and the purposes that are prohibited within the zone. Any zone(s) applying to the land is/are listed below and/or in annexures.

(Note: If no zoning appears in this section see section 1(1) for zoning and land use details (under the Sydney Regional Environmental Plan or State Environmental Planning Policy that zones this property).)

Penrith Local Environmental Plan No. 258 - Consent for Dwelling Houses and Other Development

In addition to any controls detailed above Penrith Local Environmental Plan No. 258 - Consent for Dwelling Houses and Other Development sets out further circumstances where development consent will be required for particular development. A copy of this LEP is attached.

2(e) whether any development standards applying to the land fix minimum land dimensions for the erection of a dwelling-house on the land and, if so, the minimum land dimensions so fixed:

(Information is provided in this section only if any development standards applying to the land fix minimum land dimensions for the erection of a dwelling-house on the land and, if so, the minimum land dimensions so fixed.)

2(f) whether the land includes or comprises critical habitat:

(Information is provided in this section only if the land includes or comprises critical habitat.)

2(g) whether the land is in a conservation area (however described):

(Information is provided in this section only if the land is in a conservation area (however described).)

2(h) whether an item of environmental heritage (however described) is situated on the land:

(Information is provided in this section only if an item of environmental heritage (however described) is situated on the land.)

2A ZONING AND LAND USE UNDER STATE ENVIRONMENTAL PLANNING POLICY (SYDNEY REGION GROWTH CENTRES) 2006

(Information is provided in this section only if the land is within any zone under State Environmental Planning Policy (Sydney Region Growth Centres) 2006.)

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3 COMPLYING DEVELOPMENT

HOUSING CODE

(The Housing Code only applies if the land is within Zones R1, R2, R3, R4 or RU5 under Penrith Local Environmental Plan 2010 or an equivalent zone in a non standard template planning instrument.)

Complying development under the Housing Code **may** be carried out on the land if the land is within one of the abovementioned zones.

RURAL HOUSING CODE

(The Rural Housing Code only applies if the land is within Zones RU1, RU2, RU3, RU4, RU6 or R5 under Penrith Local Environmental Plan 2010 or an equivalent zone in a non standard template planning instrument.)

Complying development under the Rural Housing Code **may** be carried out on the land if the land is within one of the abovementioned zones.

LOW RISE HOUSING DIVERSITY CODE

(The Low Rise Housing Diversity Code only applies if the land is within Zones R1, R2, R3 or RU5 under Penrith Local Environmental Plan 2010 or an equivalent zone in a non standard template planning instrument.)

Complying development under the Low Rise Housing Diversity Code **may** be carried out on the land if the land is within one of the abovementioned zones.

GREENFIELD HOUSING CODE

(The Greenfield Housing Code only applies if the land is within Zones R1, R2, R3, R4 or RU5 under Penrith Local Environmental Plan 2010 or an equivalent zone in a non standard template planning instrument, and if the land is identified as a Greenfield Housing Code Area by the Greenfield Housing Code Area Map.)

Complying development under the Greenfield Housing Code **may** be carried out on the land if the land is within one of the abovementioned zones, and if the land is identified as a Greenfield Housing Code Area by the Greenfield Housing Code Area Map.

HOUSING ALTERATIONS CODE

Complying development under the Housing Alterations Code **may** be carried out on the land.

GENERAL DEVELOPMENT CODE

Complying development under the General Development Code **may** be carried out on the land.

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COMMERCIAL AND INDUSTRIAL ALTERATIONS CODE

Complying development under the Commercial and Industrial Alterations Code **may** be carried out on the land.

SUBDIVISIONS CODE

Complying development under the Subdivisions Code **may** be carried out on the land.

DEMOLITION CODE

Complying development under the Demolition Code **may** be carried out on the land.

COMMERCIAL AND INDUSTRIAL (NEW BUILDINGS AND ADDITIONS) CODE

(The Commercial and Industrial (New Buildings and Additions) Code only applies if the land is within Zones B1, B2, B3, B4, B5, B6, B7, B8, IN1, IN2, IN3, IN4 or SP3 under Penrith Local Environmental Plan 2010 or an equivalent zone in a non standard template planning instrument.)

Complying development under the Commercial and Industrial (New Buildings and Alterations) Code **may** be carried out on the land if the land is within one of the abovementioned zones.

FIRE SAFETY CODE

Complying development under the Fire Safety Code **may** be carried out on the land.

(NOTE: (1) Council has relied on Planning and Infrastructure Circulars and Fact Sheets in the preparation of this information. Applicants should seek their own legal advice in relation to this matter with particular reference to State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

(2) Penrith Local Environmental Plan 2010 (if it applies to the land) contains additional complying development not specified in State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.)

4 COASTAL PROTECTION

The land is not affected by the operation of sections 38 or 39 of the Coastal Protection Act 1979, to the extent that council has been so notified by the Department of Public Works.

5 MINE SUBSIDENCE

The land is not proclaimed to be a mine subsidence district within the meaning of section 15 of the Mine Subsidence Compensation Act 1961.

6 ROAD WIDENING AND ROAD REALIGNMENT

The land is not affected by any road widening or road realignment under:

- (a) Division 2 of Part 3 of the Roads Act 1993, or
- (b) an environmental planning instrument, or
- (c) a resolution of council.

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7 COUNCIL AND OTHER PUBLIC AUTHORITY POLICIES ON HAZARD RISK RESTRICTIONS

(a) Council Policies

The land is affected by the Asbestos Policy adopted by Council.

The land is not affected by any other policy adopted by the council that restricts the development of the land because of the likelihood of land slip, bushfire, tidal inundation, subsidence, acid sulphate soils or any other risk (other than flooding and the item Noted below).

Note: Council has adopted by resolution a policy on contaminated land which may restrict the development of the land. This policy, Chapter C4 of Penrith Development Control Plan 2014, is implemented when zoning or land use changes are proposed on lands which have previously been used for certain purposes. Consideration of council's adopted policy and the application of provisions under relevant State legislation is warranted.

(b) Other Public Authority Policies

The Bush Fire Co-ordinating Committee has adopted a Bush Fire Risk Management Plan that covers the local government area of Penrith City Council, and includes public, private and Commonwealth lands.

The land is not affected by a policy adopted by any other public authority and notified to the council for the express purpose of its adoption by that authority being referred to in planning certificates issued by the council, that restricts the development of the land because of the likelihood of land slip, tidal inundation, subsidence, acid sulphate soils or any other risk (other than flooding).

7A FLOOD RELATED DEVELOPMENT CONTROLS INFORMATION

(1) This land has not been identified as being below the adopted flood planning level (ie. the 1% Annual Exceedance Probability flood level plus 0.5 metre) and as such flood related development controls generally do not apply for dwelling houses, dual occupancies, multi dwelling housing or residential flat buildings (not including development for the purposes of group homes or seniors housing) if such uses are permissible on the land. Council reserves the right, however, to apply flood related development controls depending on the merits of any particular application. Should future studies change this situation this position may be reviewed.

(2) This land has not been identified as being below the adopted flood planning level (ie. the 1% Annual Exceedance Probability flood level plus 0.5 metre) and as such flood related development controls generally do not apply for any other purpose not referred to in (1) above. Council reserves the right, however, to apply flood related development controls depending on the merits of any particular application. Should future studies change this situation this position may be reviewed.

8 LAND RESERVED FOR ACQUISITION

No environmental planning instrument or proposed environmental planning instrument referred to in clause 1 makes provision in relation to the acquisition of the land by a public authority, as referred to in section 3.15 of the Act.

9 CONTRIBUTIONS PLANS

The Cultural Facilities Development Contributions Plan applies anywhere residential development is permitted within the City of Penrith.

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The Penrith City Local Open Space Development Contributions Plan applies anywhere residential development is permitted within the City of Penrith, excluding industrial areas and the release areas identified in Appendix B of the Plan (Penrith Lakes, Cranebrook, Sydney Regional Environmental Plan No. 30 - St Marys, Waterside, Thornton, the WELL Precinct, Glenmore Park and Erskine Park).

The Penrith City District Open Space Facilities Development Contributions Plan applies anywhere residential development is permitted within the City of Penrith, with the exclusion of industrial lands and the Penrith Lakes development site.

Penrith Citywide Section 7.12 Development Contributions Plan for non-residential development applies to all land in the City of Penrith LGA, with the exception of land within the Lambridge Estate, WELL Precinct and Penrith City Centre that are currently subject to other development contributions plans for non-residential development.

9A BIODIVERSITY CERTIFIED LAND

(Information is provided in this section only if the land is biodiversity certified land under Part 8 of the *Biodiversity Conservation Act 2016*.)

10 BIODIVERSITY STEWARDSHIP SITES

(Information is provided in this section only if Council has been notified by the Chief Executive of the Office of Environment and Heritage that the land is land to which a biobanking stewardship agreement under Part 5 of the *Biodiversity Conservation Act 2016* relates.)

10A NATIVE VEGETATION CLEARING SET ASIDES

(Information is provided in this section only if Council has been notified of the existence of a set aside area by Local Land Services or it is registered in the public register under which section 60ZC of the *Local Land Services Act 2013* relates).

11 BUSH FIRE PRONE LAND

All of the land is identified as bush fire prone land according to Council records. Guidance as to restrictions that may be placed on the land as a result of the land being bush fire prone can be obtained by contacting Council. Such advice would be subject to further requirements of the NSW Rural Fire Services.

12 PROPERTY VEGETATION PLANS

(Information is provided in this section only if Council has been notified that the land is land to which a property vegetation plan approved under the *Native Vegetation Act 2003* applies and continues in force.)

13 ORDERS UNDER TREES (DISPUTES BETWEEN NEIGHBOURS) ACT 2006

(Information is provided in this section only if Council has been notified that an order has been made under the Trees (Disputes Between Neighbours) Act 2006 to carry out work in relation to a tree on the land.)

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14 DIRECTIONS UNDER PART 3A

(Information is provided in this section only if there is a direction by the Minister in force under section 75P(2)(c1) of the Act (repealed on 1st October 2011) that a provision of an environmental planning instrument prohibiting or restricting the carrying out of a project or a stage of a project on the land under Part 4 of the Act does not have effect.)

15 SITE COMPATIBILITY CERTIFICATES AND CONDITIONS AFFECTING SENIORS HOUSING

(Information is provided in this section only if:

- (a) there is a current site compatibility certificate (seniors housing), of which the council is aware, issued under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 in respect of proposed development on the land; and/or
- (b) any terms of a kind referred to in clause 18(2) of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 have been imposed as a condition of consent to a development application granted after 11 October 2007 in respect of the land.)

16 SITE COMPATIBILITY CERTIFICATES FOR INFRASTRUCTURE

(Information is provided in this section only if there is a valid site compatibility certificate (infrastructure), of which council is aware, in respect of proposed development on the land.)

17 SITE COMPATIBILITY CERTIFICATES AND CONDITIONS FOR AFFORDABLE RENTAL HOUSING

(Information is provided in this section only if:

- (a) there is a current site compatibility certificate (affordable rental housing), of which the council is aware, in respect of proposed development on the land; and/or
- (b) any terms of a kind referred to in clause 17(1) or 37(1) of State Environmental Planning Policy (Affordable Rental Housing) 2009 have been imposed as a condition of consent to a development application in respect of the land.)

18 PAPER SUBDIVISION INFORMATION

(Information is provided in this section only if a development plan adopted by a relevant authority applies to the land or is proposed to be subject to a consent ballot, or a subdivision order applies to the land.)

19 SITE VERIFICATION CERTIFICATES

(Information is provided in this section only if there is a current site verification certificate, of which council is aware, in respect of the land.)

NOTE: The following matters are prescribed by section 59(2) of the Contaminated Land Management Act 1997 as additional matters to be specified in a planning certificate

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- (a) (Information is provided in this section only if, as at the date of this certificate, the land (or part of the land) is significantly contaminated land within the meaning of the Contaminated Land Management Act 1997.)
- (b) (Information is provided in this section only if, as at the date of this certificate, the land is subject to a management order within the meaning of the Contaminated Land Management Act 1997.)
- (c) (Information is provided in this section only if, as at the date of this certificate, the land is the subject of an approved voluntary management proposal within the meaning of the Contaminated Land Management Act 1997.)
- (d) (Information is provided in this section only if, at the date of this certificate, the land subject to an ongoing maintenance order within the meaning of the Contaminated Land Management Act 1997.)
- (e) The land is the subject of site audit statements within the meaning of the Contaminated Land Management Act 1997 - copies of which have been provided to Council. These statements and one accompanying site audit report can be viewed at Council. Interested parties should satisfy themselves as to the content and subject of these documents.

Note: Section 10.7(5) information for this property may contain additional information regarding contamination issues.

20 LOOSE FILL ASBESTOS INSULATION

(Information is provided in this section only if there is a residential premises listed on the register of residential premises that contain or have contained loose-fill asbestos insulation (as required by Division 1A of Part 8 of the Home Building Act 1989))

21 AFFECTED BUILDING NOTICES AND BUILDING PRODUCT RECTIFICATION ORDERS

(Information is provided in this section only if Council is aware of any “affected building notice” and/or a “building product rectification order” in force for the land).

22 STATE ENVIRONMENTAL PLANNING POLICY – WESTERN SYDNEY AEROTROPOLIS 2020

The land may be subject to additional planning considerations under State Environmental Planning Policy (Western Sydney Aerotropolis) 2020):

	Planning Control	Affected?
(a)	Subject to an ANEF or ANEC contour of 20 or greater	No
(b)	Affected by the Lighting Intensity and Wind Shear Map	No
(c)	Affected by the Obstacle Limitation Surface Map	No
(d)	Affected by the “public safety area” on the Public Safety Area Map	No
(e)	Within the “3km zone” or the “13km zone” of the Wildlife Buffer Zone Map	No

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Note: The Environmental Planning and Assessment Amendment Act 2017 commenced operation on the 1 March 2018. As a consequence of this Act the information contained in this certificate needs to be read in conjunction with the provisions of the Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017, and Environmental Planning and Assessment Regulation 2000.

Information is provided only to the extent that Council has been notified by relevant government departments.

10.7(5) Certificate
This Certificate is directed to the following
relevant matters affecting the land

When information pursuant to section 10.7(5) is requested the Council is under no obligation to furnish any of the information supplied herein pursuant to that section. Council draws your attention to section 10.7(6) which states that a council shall not incur any liability in respect of any advice provided in good faith pursuant to sub-section (5). The absence of any reference to any matter affecting the land shall not imply that the land is not affected by any matter not referred to in this certificate.

Note:

- Council's 10.7(5) information does not include development consent or easement information. Details of development consents may be obtained by making enquiries with Council's Development Services Department pursuant to section 12 of the Local Government Act 1993 or (for development applications lodged after January 2007) by viewing the Online Services area at www.penrithcity.nsw.gov.au. Details of any easements may be obtained from a Title Search at Land and Property Information New South Wales.
- This certificate does not contain information relating to Complying Development Certificates.
- This certificate may not provide full details of development rights over the land.

*** Biodiversity Conservation Act 2016**

When considering any development application Council must have regard to the Biodiversity Conservation Act 2016. Please note that this legislation may have application to any land throughout the city. Interested persons should make their own enquiries in regard to the impact that this legislation could have on this land.

*** Restrictions as to User**

This property is subject to restriction(s) as to user. See current or previous Section 88B Instrument(s) for details.

*** Covenant(s)**

This land is affected by a covenant or covenants.

*** Preservation of Trees and Vegetation**

See Chapter C2 of Penrith Development Control Plan 2014 for specific controls relating to the preservation of trees and vegetation.

*** Development Control Plan General Information**

Penrith Development Control Plan 2014 which applies to the land, sets out requirements for a range of issues that apply across the Penrith Local Government Area, including:

- Site Planning and Design Principles

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- Vegetation Management
- Water Management
- Land Management
- Waste Management
- Landscape Design
- Culture and Heritage
- Public Domain
- Advertising and Signage
- Transport, Access and Parking
- Subdivision
- Noise and Vibration, and
- Infrastructure and Services.

The Development Control Plan also specifies requirements relating to various types of land uses including:

- Rural Land Uses
- Residential Development
- Commercial and Retail Development, and
- Industrial Development

as well as for a number of specific activities, including child care centres; health consulting rooms; educational establishments; parent friendly amenities; places of public worship; vehicle repair stations; cemeteries, crematoria and funeral homes; extractive industries; and telecommunication facilities.

The Development Control Plan also details requirements relating to key precincts within the Penrith Local Government Area, including:

- Caddens
- Claremont Meadows Stage 2
- Cranebrook
- Emu Heights
- Emu Plains
- Erskine Business Park
- Glenmore Park
- Kingswood
- Mulgoa Valley
- Orchard Hills
- Penrith
- Penrith Health and Education Precinct
- Riverlink Precinct
- St Clair,
- St Marys / St Marys North, and
- Sydney Science Park.

Penrith Development Control Plan 2014 may be accessed at
<https://www.penrithcity.nsw.gov.au/Building-and-Development/Planning-and-Zoning/Planning-Controls/Development-Control-Plans/>

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*Council holds environmental report(s) relating to the subject property. Copies of the report(s) are available from Council for inspection by interested persons. Interested persons should satisfy themselves as to the state of the land and in relation to any matter or thing, including any documents referred to in, or disclosed by, this notation.

Report Title, Prepared by, Date

Environmental Site Assessment: X Series Compound, Stage 1 and 2, Central Precinct, Llandilo, NSW, prepared by JBS&G Australia Pty Ltd, dated 10 August 2016 (Ref. 50374-101210 (Rev 0)).

Council Ref No.

ECM Document Set ID 7312257 DA14/1228 and DA15/0299

Report Title, Prepared by, Date

Correspondence titled "Re: Interim Advice No. 29 - Review and endorsement of Revised X Series Compound Environmental Site Assessment (Rev0), Stage 1 and 2 Central Precinct, Llandilo, NSW", prepared by ZOIC Environmental Pty Ltd, dated 17 August 2016 (Ref. 14124_IA29_Aug2016 X series).

Council Ref No.

ECM Document Set ID 7309923 DA14/1228

Version: 1, Version Date: 15/12/2016
Document Set ID: 7459749

Report Title, Prepared by, Date

Site Audit Report for EW1, EW2, Riparian zones A, B, C: Central Precinct Llandilo, NSW, prepared by ZOIC Environmental Pty Ltd, dated October 2016 (Ref. 14124), containing Site Audit Statement (No. KJL118-EW1, EW2, A, B, C) issued by Kylie Lloyd of ZOIC Environmental Pty Ltd dated 12 October 2016.

Council Ref No.

ECM Document Set ID 7378935 DA14/1228 and DA15/0299

Report Title, Prepared by, Date

Environmental Site Assessment: Jordan Springs Connector Road, Central Precinct, Llandilo, NSW, prepared by JBS&G Australia Pty Ltd, dated 16 September 2016 (Ref. 50628/104821 (Rev 0)).

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Council Ref No.

ECM Document Set ID 7387552 DA14/1228 and DA15/0299

Report Title, Prepared by, Date

Correspondence titled "Auditor opinion on Section 96 Modification regarding issue of Interim Advice throughout the Ropes Crossing Central Precinct Development, Llandilo, NSW", prepared by ZOIC Environmental Pty Ltd, dated 11 October 2016 (Ref. 14124_s96 modification opinion_11 October 16).

Council Ref No.

ECM Document Set ID 7408952 DA14/1228.02

Report Title, Prepared by, Date

Addendum to Environmental Site Assessment - Jordan Springs Connector Road - Central Precinct, Llandilo, NSW, prepared by JBS&G Australia Pty Ltd, dated 7 October 2016 (Ref. 50628-105539).

Council Ref No.

ECM Document Set ID 7409644 DA15/0299.04

Report Title, Prepared by, Date

Addendum to The Sampling Analysis and Quality Plan for the Jordan Springs Connector Road - Central Precinct, Llandilo, NSW, prepared by JBS&G Australia Pty Ltd, dated 7 October 2016 (Ref. 50628-105535).

Version: 1, Version Date: 15/12/2016

Document Set ID: 7459749

Council Ref No.

ECM Document Set ID 7409644 DA15/0299.04

Report Title, Prepared by, Date

Correspondence titled "Re: Auditor Interim Advice No. 36 - Review of revised Jordan Springs Connector Road ESA, Central Precinct, Llandilo, NSW", prepared by ZOIC Environmental Pty Ltd, dated 2 November 2016 (Ref. 14124_IA36_Oct 2016 JS cnctr rd amended).

Council Ref No.

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ECM Document Set ID 7459405 DA15/0299.04

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Report Title, Prepared by, Date

The Site Contamination Status Report prepared by JBS&G (dated 15/4/2014, ref 43352-57331)

Council Ref No.

IMS: 4658561 (DA14/0411)

* Council holds environmental report(s) relating to the subject property. Copies of the report(s) are available from Council for inspection by interested persons. Interested persons should satisfy themselves as to the state of the land and in relation to any matter or thing, including any documents referred to in, or disclosed by, this notation.

Report Title, Prepared by, Date

Sampling Analysis and Quality Plan prepared by JBS&G (dated 9/4/2014, ref 43352-57348, Rev A)

Council Ref No.

IMS: 4658561 (DA14/0411)

* Council holds environmental report(s) relating to the subject property. Copies of the report(s) are available from Council for inspection by interested persons. Interested persons should satisfy themselves as to the state of the land and in relation to any matter or thing, including any documents referred to in, or disclosed by, this notation.

Report Title, Prepared by, Date

Correspondence titled " Re: Interim Advice No.2: Review of Sampling Analysis and Quality Plan (SAQP Rev D) and Response to Interim Advice No.1", prepared by ZOIC Environmental Pty Ltd, dated 2 March 2015 (Ref. 14124_IA2).

Council Ref No.

ECM 6696820 DA15/0299

Report Title, Prepared by, Date

Correspondence titled "Re: Interim Advice No.4: Review of Contamination Management Plan (CMP) Rev B, Maryland Development Company Pty Ltd, Central Precinct, Llandilo, NSW", prepared by ZOIC Environmental Pty Ltd, dated 16 March 2015 (Ref. 14124_IA4).

Council Ref No.

ECM 6696820 DA15/0299

Report Title, Prepared by, Date

Correspondence titled "Re: Interim Advice No.6: Review of Conceptual Remedial Strategy (CRS) Rev 1, Maryland Development Company Pty Ltd, Central Precinct, Uandilo, NSW", prepared by ZOIC Environmental Pty Ltd, dated 26 March 2015 (Ref. 14124_IA6).

Council Ref No.

ECM 6696820 DA15/0299

PLANNING CERTIFICATE UNDER SECTION 10.7
Environmental Planning and Assessment Act, 1979

Report Title, Prepared by, Date

Contamination Management Plan: Central Precinct, Llandilo, NSW, prepared by JBS&G Australia Pty Ltd, dated 5 March 2015 (Ref. 43352/61064 (Rev B)).

Council Ref No.

ECM 6696820 DA15/0299

Report Title, Prepared by, Date

Sampling Analysis and Quality Plan - Final: Central Precinct, Llandilo, NSW, prepared by JBS&G Australia Pty Ltd, dated 24 March 2015 (Ref. 43352-57348 (Rev 1)).

Council Ref No.

ECM 6696820 DA15/0299

Report Title, Prepared by, Date

Conceptual Remedial Strategy - Final: Stage 1 and 2, Central Precinct, Llandilo, NSW, prepared by JBS&G Australia Pty Ltd, dated 26 March 2015 (Ref. 50539 - 60934 (Rev 1)).

Council Ref No.

ECM 6696820 DA15/0299

The land the subject of this certificate (**the Lot**) is within an area of land known as Jordan Springs East (**JSE**) which has been filled as part of subdivision works approved under DA14/1228.02 (**DA**). Penrith City Council (**the Council**) is aware that Lot Classification Certificate (PSM3590-1259C) dated 28 April 2020, issued by PSM Consult Pty Ltd (**PSM**) at the request of the developer, states:

- the Acceptance Criteria is Cone penetration testing (**CPT**);
- CPT data indicates fill of low relative compaction may exist beneath the allotment;
- PSM has classified the Lot as **Class H1** based on AS 2870-2011;
- the subsurface conditions at the Lot comprise Controlled Fill.

The Council has determined, following an investigation and based on independent legal and geotechnical advice, that:

- The Lot contains fill, based on information provided by and on behalf of the developer.
- Accordingly, the default classification for the Lot under clause 2.1.3(c) of AS 2870-2011 'Residential slabs and footings' is **Class P**.
- The Lot may be given an alternative site classification under clause 2.5.3(c) of AS2870-2011 only if the Lot contains fill that is controlled fill as defined in clause 2.5.3 of AS2870-2011.
- The developer has not established to the Council's satisfaction that the Lot contains fill that is controlled fill. The reasons for this are explained below.
- Re-classification under clause 2.5.3 of AS2870-2011 is not permissible in those circumstances.
- The Council will treat the Lot as Class P for all planning purposes.
- In particular, that means that the Council will require footing systems for any future development or redevelopment on the Lot to be designed in accordance with Section 4 - 'Design By Engineering Principles' of AS 2870-2011.

The Council's reasons include:

- The Conditions of Consent for DA14/1228.02 (**Conditions of Consent**) and the Earthworks Specification for JSE prepared by Douglas Partners (**Earthworks Specification**) specify the

PLANNING CERTIFICATE UNDER SECTION 10.7

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technical and control requirements for the importation, placement, compaction, inspection and testing of fill at JSE (**the specified technical and control requirements**).

- Clause 41 of the Conditions of Consent states:

All earthworks shall be undertaken in accordance with AS 3798 and Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments, Engineering Construction Specification for Civil Works.

The level of testing shall be determined by the Geotechnical Testing Authority/Superintendent in consultation with the Principal Testing Authority.
- Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments states in Section 1.9.3 for Lot Filling/Grading:

Filling shall be carried up in horizontal layers, extend the full width of the area being filled, of not more than 300 mm loose thickness. Each layer shall be compacted to a density ratio of at least 95% Standard, using AS 1289.5.4.1 (2007) - 'Methods of Testing Soils for Engineering Purposes'. The depths of fill and the compaction thereof are to be verified by the submission of compaction certificates from a N.A.T.A. registered laboratory, and a plan showing contoured depths of fill in relation to lot boundaries. Frequency of testing and treatment of failed areas to be in accordance with AS 3798 (2007) - 'Guidelines on Earthworks for Commercial and Residential Developments'.
- The Earthworks Specification:
 - requires "Spreading of material in uniform, horizontal layers in maximum loose thickness layers of 300 mm. Layer thicknesses of up to 500 mm loose thickness are permitted provided that the Contractor demonstrates compliance with the minimum compaction throughout the full depth of the layer. Spreading shall achieve good distribution and shall avoid segregation or pockets of nonhomogeneous material. Layers of material shall not differ substantially from surrounding material and the density shall be uniform throughout each compacted layer"
 - limits maximum particle size to "150 mm for layer thickness of up to 300 mm, otherwise 200 mm for layer thicknesses of up to 500 mm, inclusive of the removal of steel reinforcement"
 - identifies unsuitable material as:
 - Soils with vegetation including tree stumps, roots, high root fibre content or other organic matter
 - Silts or soils with a predominant portion of silt
 - Ripped rock comprising oversize material with particle sizes of greater than 150 mm or half of the compacted layer thickness (i.e., following compaction)
 - sets compaction level to "Structural / Engineered Filling (Residential Lots) - Minimum 95% SMDD (AS 1289.5.1.1), or 95% Hilf density ratio (AS 1289.5.7.1), or 65% DI (AS 1289.5.6.1)"
 - requires compaction moisture content to be "Structural / Engineered Filling (Residential Lots) +/- 2% of Standard Optimum Moisture content or maximum +/- 2% Hilf moisture variation"
 - Specifies the minimum frequency of testing as "1 test per layer per material type per 1500 m², or 1 test per 500 m³ evenly distributed"
- Fill that is in accordance with the specified technical and control requirements for JSE is classified as *controlled fill* for the purposes of AS2870-2011.

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- Information supplied to the Council by and on behalf of the developer and independent investigations by the Council and other persons, satisfies the Council that the earthworks in substantial parts of JSE was not undertaken in accordance with the specified technical and control requirements.
- The developer has not established to Council's satisfaction that the earthworks in and around the Lot was undertaken in accordance with the specified technical and control requirements for JSE.
- The developer has relied on cone penetration testing data, obtained after completion of the earthworks, as the basis for re-classifying lots containing fill. The Council is satisfied that this is not permissible under AS2870-2011.
- The Conditions of Consent and the Earthworks Specification does not authorise the use of cone penetration testing data, obtained after completion of the earthworks, as the basis for -
 - developing alternative acceptance criteria for the earthworks in substitution for the specified technical and control requirements for JSE; or
 - classifying fill as *controlled fill*, where the fill has not been demonstrated to comply with the specified technical and control requirements for JSE at the time of placement.

A copy of a joint report to Council's solicitors by Professor Nasser Khalili and Dr Peter Mitchell dated 23 December 2020 explaining some of the underlying technical issues may be viewed on the Council's website.

The Council recommends that owners and intending purchasers seek independent legal and engineering advice about the implications of these matters.

Warwick Winn
General Manager

PER



Please note:

Certain amendments to the Environmental Planning and Assessment Act 1979 No 203 (Act) commenced on 1 March 2018.

The Environmental Planning and Assessment (Amendment) Act 2017 No 60 makes structural changes to the Act and, as a consequence, the Act has been renumbered in a decimal format. For example, Section 149 Planning Certificates have become Section 10.7 Certificates. Some of the information in this certificate may refer to the previous version of the Act.

Council is committed to updating all relevant documents in a timely manner. This will include planning instruments, applications, approvals, orders, certificates, forms and other associated documents in both printed and electronic versions. Council is required to implement these changes and regrets any inconvenience caused to the local business, industry and the community.

Attachment

Penrith Local Environmental Plan No 258 - Consent for Dwelling Houses and Other Development

1 Name of plan

This plan is *Penrith Local Environmental Plan No 258 - Consent for Dwelling Houses and Other Development*.

2 Aims of plan

This plan aims to:

- (a) require development consent for dwelling houses on residentially zoned land within the City of Penrith, and
- (b) require development consent for dwelling houses on land within the Non-urban zone under the *Penrith Planning Scheme Ordinance* and on land within the Special Business zone under *Penrith Local Environmental Plan 1997 (Penrith City Centre)*, and
- (c) require development consent for dwelling houses attached to and used in conjunction with shops on land within the Neighbourhood Business zone under the *Penrith Planning Scheme Ordinance*, and
- (d) require development consent for the following:
 - (i) the erection of a building or structure ordinarily associated with a dwelling house,
 - (ii) a change of building use,

Note. At the commencement of this plan, **a change of building use** meant a change of use of a building from a use that the *Building Code of Australia* recognises as appropriate to one class of building to a use that the *Building Code of Australia* recognises as appropriate to a different class of building.

- (iii) demolition of a building or structure,
- (iv) carrying out structural alterations to a building, internal alterations to a building, or external building work in association with business premises, a bed and breakfast establishment, office premises, commercial premises or take away food shops,
- (v) the subdivision of land,

to the extent to which such development does not already require development consent because of another environmental planning instrument in order to be carried out.

3 Land to which plan applies

This plan applies to all land within the City of Penrith.

4 Relationship to other environmental planning instruments

- (1) In the event of an inconsistency between this plan and any other local environmental planning instrument or deemed environmental planning instrument, this plan shall prevail to the extent of the inconsistency, subject to section 36 (4) of the Act.
- (2) This plan amends:
 - (a) *Penrith Planning Scheme Ordinance* in the manner set out in Schedule 1,
 - (b) *Penrith Local Environmental Plan 1997 (Penrith City Centre)* in the manner set out in Schedule 2, and
 - (c) *Penrith Local Environmental Plan 1998 (Urban Land)* in the manner set out in Schedule 3.
- (3) This plan does not affect the application of:
 - (a) *State Environmental Planning Policy No 3 - Castlereagh Liquid Waste Disposal Depot*,

- (b) *State Environmental Planning Policy No 27 - Prison Sites,*
 - (c) *Sydney Regional Environmental Plan No 9 - Extractive Industry,*
 - (d) *Sydney Regional Environmental Plan No. 11 - Penrith Lakes Scheme,*
 - (e) *Sydney Regional Environmental Plan No 20 - Hawkesbury-Nepean River (No 2-1997),*
 - (f) *Sydney Regional Environmental Plan No 30 - St Marys, or*
 - (g) *Penrith Local Environmental Plan No 255 - Exempt and Complying Development,*
- to land to which this plan applies.

5 Definitions

- (1) In this plan:

a building or structure ordinarily associated with a dwelling house means a garage, carport, pergola, swimming pool, and the like, and includes alterations and additions to an existing dwelling house.

change of building use has the same meaning as in the Act.

Note. At the commencement of this plan, a ***change of building use*** meant a change of use of a building from a use that the *Building Code of Australia* recognises as appropriate to one class of building to a use that the *Building Code of Australia* recognises as appropriate to a different class of building.

dwelling means a room or number of rooms occupied or used, or so constructed or adapted as to be capable of being occupied or used, as a separate domicile.

dwelling house means a dwelling which is the only dwelling erected on an allotment of land.

subdivision of land has the same meaning as in the Act.

the Act means the *Environmental Planning and Assessment Act 1979*.

- (2) The list of contents and notes in this plan are not part of this plan.

6 Dwelling houses require development consent

- (1) The erection of a dwelling house must not be carried out without development consent.
- (2) This clause applies to residentially zoned land within the City of Penrith.
- (3) This clause applies if the development:
- (a) does not require development consent because of another environmental planning instrument, and
 - (b) is not prohibited by another environmental planning instrument.

7. Miscellaneous development that requires development consent

- (1) The following development must not be carried out without development consent:
- (a) erection of a building or structure ordinarily associated with a dwelling house, or
 - (b) development that results in a change of building use, or
 - (c) demolition of a building or structure, or
 - (d) structural, internal or external building work in association with business premises, a bed and breakfast establishment, office premises, commercial premises or take away food shops.
- (2) This clause applies if the development:
- (a) does not require development consent because of another environmental planning instrument, and
 - (b) is not prohibited by another environmental planning instrument, and

- (c) is not identified in *Penrith Local Environmental Plan No 255 - Exempt and Complying Development* as exempt development, and
- (d) does not involve Crown building work as defined in section 116G of the Act.

8 Subdivisions require development consent

- (1) A subdivision of land must not be carried out without development consent.
- (2) This clause applies if the subdivision of land:
 - (a) does not require development consent because of another environmental planning instrument, and
 - (b) is not prohibited by another environmental planning instrument, and
 - (c) is not identified in *Penrith Local Environmental Plan No 255 - Exempt and Complying Development* as exempt development, and
 - (d) does not involve Crown building work as defined in section 116G of the Act.

Schedule 1 Amendment of Penrith Planning Scheme Ordinance

(Clause 4 (2) (a))

[1] Clause 4 Interpretation

Omit the definition of *Country dwelling*.

[2] Clause 26 Erection or use of buildings or works

Omit “country dwellings;” from Column III for Zone No 1 of the Table to the clause.

[3] Clause 26, Table

Omit “dwelling-houses other than country dwellings and rural dwellings;” from Column V for Zone No. 1.

[4] Clause 26, Table

Omit “Dwelling-houses other than semi-detached and terrace buildings.” from Column III for Zone No 2(a).

[5] Clause 26, Table

Omit “Residential buildings.” from Column III for Zone No 2 (b).

[6] Clause 26, Table

Omit “Dwelling-houses other than semi-detached or terrace buildings.” from Column III for Zone No 2 (c).

[7] Clause 26, Table

Omit “;dwelling-houses attached to and used in conjunction with shops” from Column III for Zone No 3 (c).

[8] Clause 26, Table

Omit “Purposes” from Column IV for Zone No 3(c).

Insert instead “Buildings or other structures ordinarily associated with dwelling houses; changes of building use (as defined in the *Environmental Planning and Assessment Act 1979*); dwelling-houses attached to and used in conjunction with shops; demolition of buildings or other structures; land uses and premises”.

[9] Clause 26, Table

Insert “; structural or internal alterations to, or external building work in association with, commercial premises or refreshment rooms” after “roads” in Column IV for Zone No 3(c).

[10] Clause 38 Development in residential zones

Omit the clause.

[11] Clause 46 Variation of area required for country dwelling

Omit the clause.

Schedule 2 Amendment of Penrith Local Environmental

Plan 1997 (Penrith City Centre)

(Clause 4 (2) (b))

[1] Clause 9 Zone objectives and development control table

Omit from item (b) (i) **Without development consent** for Zone No 2 (f) in the Development Control Table:

- dwelling-houses

[2] Clause 9, table

Insert in alphabetical order in item (b) (ii) **Only with development consent** for Zone No 2 (f):

- buildings or other structures ordinarily associated with dwelling-houses
- demolition of buildings or other structures
- dwelling-houses

[3] Clause 20 Development of land within Zone No 3 (a)

Insert “where the new use does not involve structural or internal alterations or external buildings works” after the words “or take away food shops”.

Schedule 3 Amendment of Penrith Local Environmental Plan 1998 (Urban Land)

(Clause 4 (2) (c))

[1] Clause 9 Zone objectives and development control table

Omit wherever occurring from item (b) (i) **Without development consent** for Zones Nos 2 (a1), 2 (a), 2 (b), 2 (c), 2 (d) and 2 (e) in the Development Control Table:

- dwelling houses

[2] Clause 9, table

Insert in alphabetical order in item (b) (ii) **Only with development consent** for Zones Nos 2 (a1), 2 (a), 2 (b), 2 (c), 2 (d) and 2 (e):

- buildings or other structures ordinarily associated with dwelling houses
- changes of building use (as defined in the Act)
- demolition of buildings or other structures
- dwelling houses
- internal structural work in bed and breakfast establishments

[3] Clause 9, table

Insert in alphabetical order in item b (ii) **Only with development consent** for Zones Nos 2 (r) and 2 (r1);

- buildings or other structures ordinarily associated with dwelling houses
- changes of building use (as defined in the Act)
- demolition of buildings or other structures
- structural or internal alterations to bed and breakfast establishments

[4] Clause 9, table

Insert in alphabetical order in item (b) (ii) **Only with development consent** for Zone No 3 (f):

- changes of building use (as defined in the Act)
- demolition of buildings or other structures
- external building work associated with an existing land use carried out with consent
- structural or internal alterations to a building or other structure erected with consent or building approval