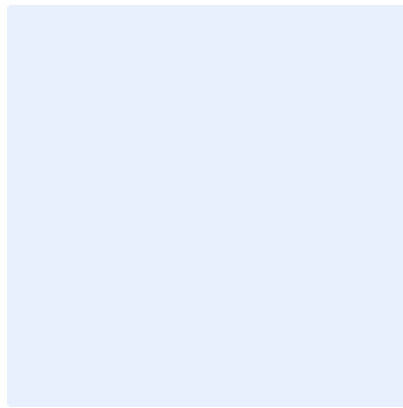


Hadley Park Homestead Works

Part 4 Development Application (DA23/907)

June 2023



Published by the NSW Department of Planning and Environment

dpie.nsw.gov.au

Title: Hadley Park Homestead Works

Subtitle: Part 4 Development Application (DA23/907)

Cover image: Hadley Park Homestead (Source: Applicants Documentation)

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Glossary

Abbreviation	Definition
AHD	Australian Height Datum
Applicant	Office of Strategic Lands
Council	Penrith City Council
DA	Development Application
Department	Department of Planning, Industry and Environment
Development	The development as described in the SEE and RtS for the Hadley Park Homestead Works
EP&A Act	Environmental Planning and Assessment Act 1979
EP&A Regulation	Environmental Planning and Assessment Regulation 2021
EPI	Environmental Planning Instrument
ESD	Ecologically Sustainable Development
HNSW	Heritage NSW
LEP	Local Environmental Plan
Minister	Minister for Planning and Public Spaces
Planning Secretary	Secretary of the Department of Planning and Environment
RFI	Request for Information
RTS	Response to Submissions
SEE	Statement of Environmental Effects – ‘Revised Statement Of Environmental Effects: Hadley Park Homestead Development Application for Stage 1 Remedial Works’ Rev 5 prepared by Tract dated 23 January 2023
SEPP	State Environmental Planning Policy

Executive Summary

Introduction

This report provides an assessment of a DA23-907 seeking approval for works to the existing homestead and associated buildings at 14-278 Old Castlereagh Road, Castlereagh. The proposal comprises the stabilisation, part demolition and restoration works to the homestead and associated farm buildings

The Applicant is the Office of Strategic Lands and the site is located within the Penrith City Council local government area. The Minister for Planning and Public Spaces is the consent authority for the development under clause 5.7(a) of the State Environmental Planning Policy (Precincts – Western Parkland City) 2021 as the development is located on unzoned land within the Penrith Lakes Scheme.

Engagement

The Department publicly exhibited the application for 28 days from 24 February 2023 to 23 March 2023. During the exhibition period, the Department received a submission from Council providing comments on the application and advice from Heritage NSW noting that a s60 approval was already in place, and as such, General Terms of Approval were not required. No submissions from the community were received.

In response to issues raised in submissions and additional information requested by the Department, the Applicant submitted a Response to Submissions (RtS) report and supplementary RtS which provided additional information for the proposal. Council provided a further submission providing comments in response to the Response to Submissions outlining that their issues had been addressed.

Assessment

The Department has considered the merits of the proposed development in accordance with the relevant matters under Section 4.15(1) of the Environmental Planning and Assessment Act 1979 (EP&A Act), the issues raised in the submissions and the Applicant's response.

The key issues associated with the proposed development are heritage and stormwater.

The Department has carefully considered the proposal as well as the issues raised in the submissions and is satisfied the proposal is acceptable for the following reasons:

- it is permissible with development consent on unzoned land under the Western Parkland SEPP and consistent with the objectives of the SEPP
- the works will aid in preserving an item of State heritage significance
- it will undertake works to provide essential services such as electrical and stormwater works to ensure the longevity of the site
- appropriate conditions have been imposed to ensure, heritage items are documented prior to works commencing, unexpected Aboriginal and European heritage find are appropriately handled and flood impacts are mitigation.

Conclusion

The Department is satisfied the proposed development would result in a positive contribution to the Castlereagh area and would preserve the history and heritage whilst addressing existing structural issues on site.

The Department's assessment concludes the site is suitable for the proposed development and the proposal is in the public interest. The Department consider the potential impacts can be mitigated and would not result in any adverse impact to the heritage value of the subject site or the local area.

The Department therefore recommends the application be approved, subject to conditions.

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1 Introduction

1.1 Background

This report provides the Department of Planning and Environment's (the Department) assessment of development application DA23/907 (the application) lodged by the Office of Strategic Lands (the Applicant) under Part 4 of the *Environmental Planning and Assessment Act 1979* (the Act).

The application seeks approval for stabilisation works, part demolition and restoration work to the Hadley Park Homestead and associated buildings.

1.2 Subject Site

The site is located at 14-278 Old Castlereagh Road, Castlereagh approximately 7.5 kilometres north-west of the Penrith CBD within the Local Government Area (LGA) of the Penrith (**Figure 1**). The site is legally defined as Lot 1 and 2 DP87060 (**Figure 2**).

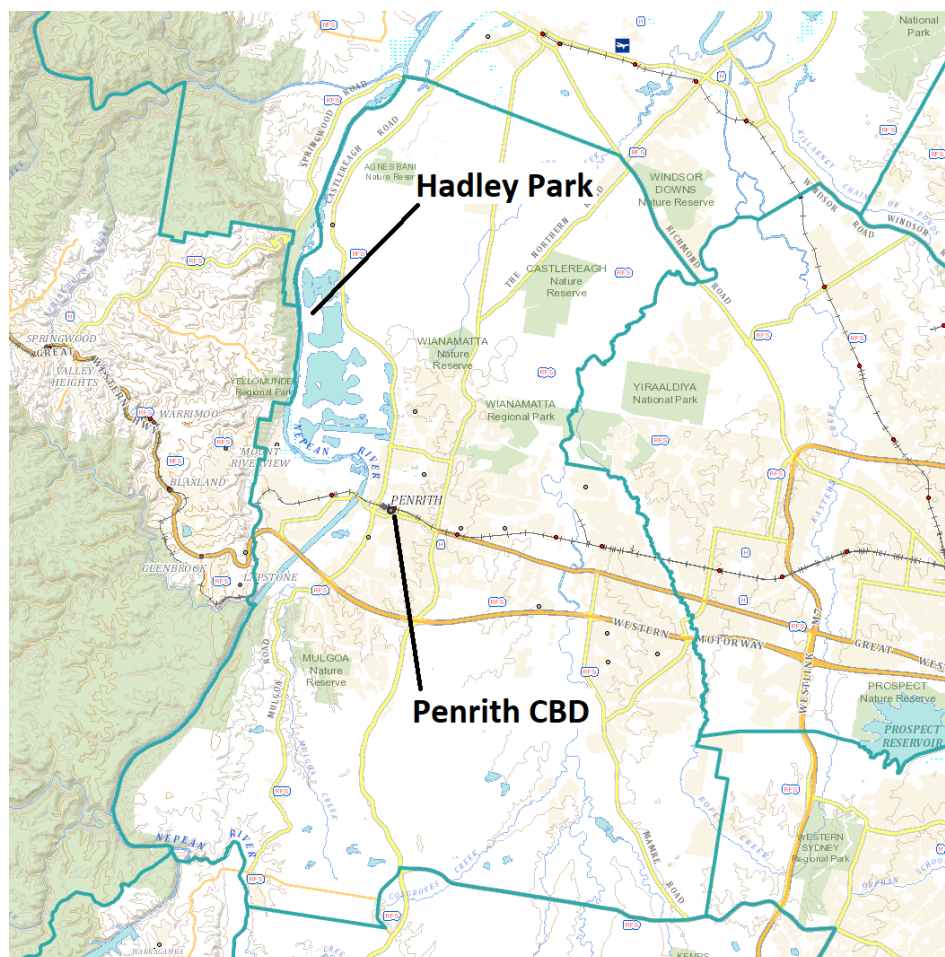


Figure 1 | Penrith LGA with the subject site and Penrith CBD (Base source: ePlanning Spatial Viewer)



Figure 2 | Hadley Park Homestead Boundaries (Source: NearMap, 2023)

The site is located in the Penrith Lakes Scheme and is zoned as 'unzoned' under *State Environmental Planning Policy (Precincts - Western Parkland City) 2021* (Western Parkland SEPP). The site is 37.95Ha in area and currently comprises the Hadley Park Homestead, associated farm buildings and farm infrastructure as described in detail below. The site is bound by the Nepean River to the west and comprises part of 'Lake B' of the Penrith Lakes Scheme with the eastern third of the site submerged within the lake. The part of site on land is identified as being a State heritage item.

The site comprising the Hadley Park Homestead and also contains a weatherboard cottage, stables, garage, creamery, dairy and milk storage shed, feed store, guest house, laundry and hay shed. The ancillary structures were constructed between 1806 and approximately 1960. The Statement of Heritage Impact describes the various structures on the site as follows:

Hadley Park Homestead (main dwelling)

The two-storey main house (**Figure 3**) was constructed in 1812 of brick nog construction, a method in which sandstock brick is placed between timber noggings within a timber post and beam construction. Another feature includes the jerkin-head roof. This represents rare surviving and highly intact evidence of some of the earliest colonial construction methods in Australia. The main house was originally constructed as a dwelling to support the rural undertakings on the lot. The dwelling is in poor condition, having extensive termite damage resulting in structural failings. The building is currently not habitable and has not been used as a dwelling for some time.



Figure 3 | Hadley Park Homestead (Source: Applicant's Documentation)

Weatherboard Cottage

The c.1806 weatherboard cottage is single-storey and constructed with a timber frame clad in split timber boards, overlaid with metal sheets of flattened kerosene tins, with a hipped roof (**Figure 4**). This represents rare surviving and highly intact evidence of some of the earliest colonial construction methods in Australia. The cottage is in fair to poor condition also suffering termite damage.



Figure 4 | Weatherboard Cottage (Source: Applicant's documentation)

Stables and Garage

The pre-1828 stables and c1950s garage extension (**Figure 5**) are post and beam construction. Some timber slab cladding remains to the stable wing and the other walls and gabled roof are clad in corrugated metal sheeting. The stables represent rare surviving and highly intact evidence of some of the earliest colonial construction methods in Australia, which are now defunct. The stables and garage are in poor condition, with evidence of weather and termite damage.



Figure 5 | Stables (Centre) and Garage (Left) (Source: Applicant's Documentation)

Creamery

The early twentieth century creamery is a post and beam structure clad in timber weatherboards with a gabled roof (**Figure 6**). The creamery is in poor condition, it has structural issues and missing timber weatherboards.



Figure 6 | Creamery (Source: Applicant's Documentation)

Dairy, Milk Storage Shed and Race

The c1930s dairy is timber post and beam construction with a gabled roof both clad in corrugated metal sheeting (**Figure 7**). The more recent attached milk storage shed is timber stud construction clad in fibrous cement sheet. The condition of the dairy, milk storage shed are in fair condition with evidence of weather, termite, and rust damage.



Figure 7 | Dairy (Right), Milk Storage Shed (Left) and Race (Behind) (Source: Applicant's Documentation)

Feed Store and Cow Bails

The early twentieth century feed store and cow bails are a timber post and beam construction clad in corrugated metal sheeting with gabled rooves (Figure 8). The cow bails are constructed of timber. Due to extreme weather, a section of the corrugated metal clad wall and framing members have fallen away from the feed store. The building is in fair to poor condition with evidence of weather and termite damage.



Figure 8 | Feed Store and Cow Bails Cow Bails (Source: Applicant's Documentation) Hay Shed

The c.1950s hay shed is a high clearance post and beam construction, it is enclosed on two sides in corrugated metal sheeting (**Figure 9**). The hay shed lost its roof to extreme weather in 2019. The hay shed is in poor condition.



Figure 9 | Hay Shed (Source: Applicant's Documentation)

Guest House and Laundry

The c.1960 laundry (**Figure 10**) and guest house (**Error! Reference source not found.**) are the most recent buildings on the site, both constructed of concrete blocks. The guest house has a hipped roof clad in corrugated metal and the laundry has a gable roof also clad in corrugated metal. Both structures are in fair condition.



Figure 10 | Laundry (to be demolished) (Source: Applicant's Documentation)



Figure 11 | Guest House (To be demolished) (Source: Applicant's Documentation)

1.3 Surrounding Land Uses and Road Network

The subject site is located within the Penrith Lakes Scheme. The surrounding area comprises a mix of man-made lakes, former quarry locations, former rural lands and the Nepean River (**Figure 12**).

To the north of the site is rural land and the 'Wildlife Lake'. Outside of the scheme area are small rural allotments.

To the east of the site is 'Lake B'. Beyond the lake is Castlereagh Road, and small rural-residential lots are to the east of Castlereagh Road.

To the south of the site is Nepean Park, a heritage item under the Western Parkland SEPP. Further south is 'Lake A' and the Sydney International Regatta Centre.

To the west of the site is the Nepean River, with the Blue Mountains National Park (and the Blue Mountains LGA) on the western bank of the river.

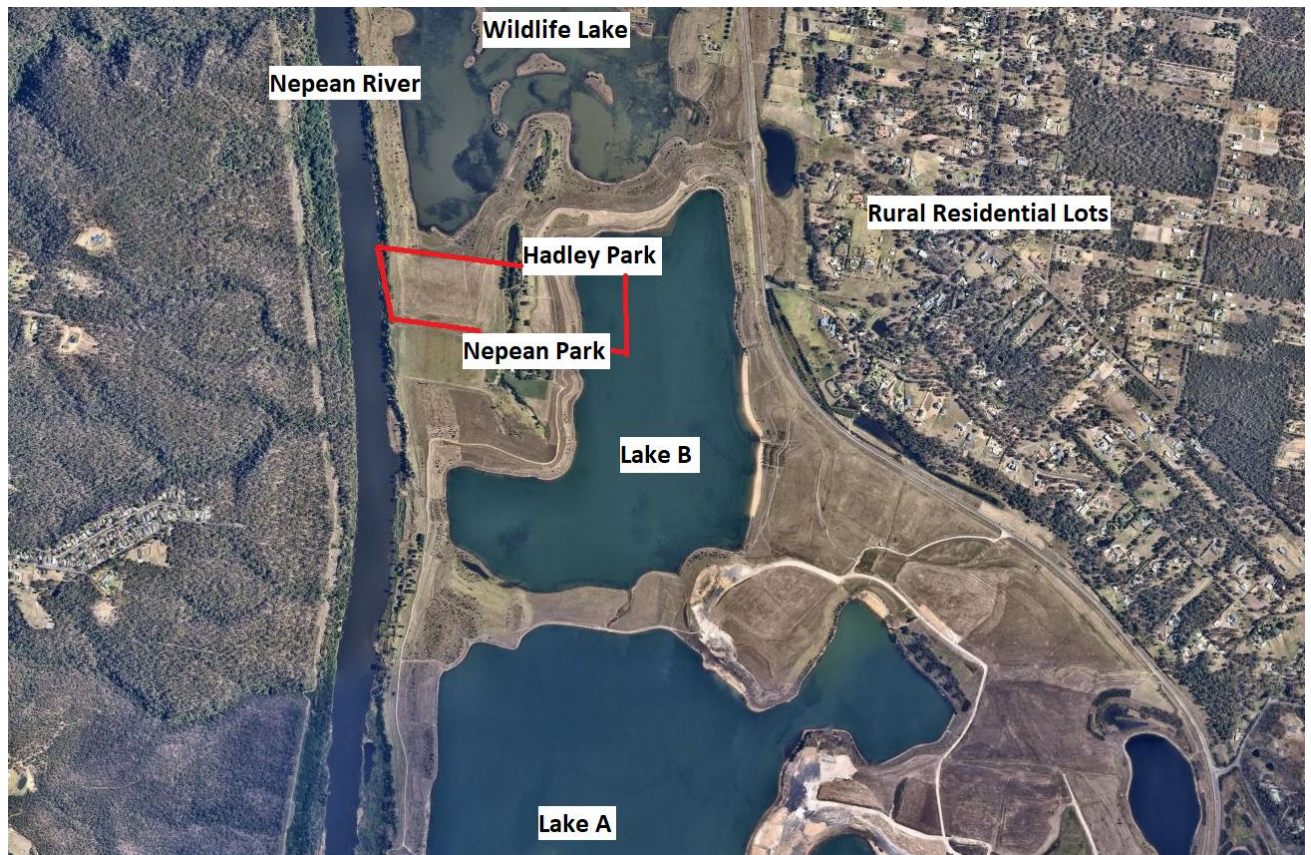


Figure 12 | Subject Site and surrounding land uses (Source: NearMap)

1.4 Penrith Lakes Scheme

The Penrith Lakes Scheme (the Scheme) is a 30-year quarrying and rehabilitation proposal being undertaken by the Penrith Lakes Development Corporation (PLDC) in accordance with a Deed of Agreement, dated 11 August 1987 (amended 14 August 1989), with the NSW Government. The extent of the Scheme is identified in **Figure 13**.

The Scheme is located within the Nepean River floodplain. It is being transformed from a sand and gravel quarry into a water-oriented recreation park, with land suitable for rural, tourism and employment uses. Quarrying activities on the site ceased in September 2015. Since then, PLDC has been progressively rehabilitating the site.

Development on the Penrith Lakes site is governed by the Western Parkland SEPP. The Penrith Lakes Scheme comprises approximately 80 ha of waterways, 110 ha of parklands, 118 ha of environmental area, 33 ha of employment area and 52 ha of tourism area, and 1,330 ha of unzoned land subject to future land use planning, following the completion of flood investigations and community consultation.

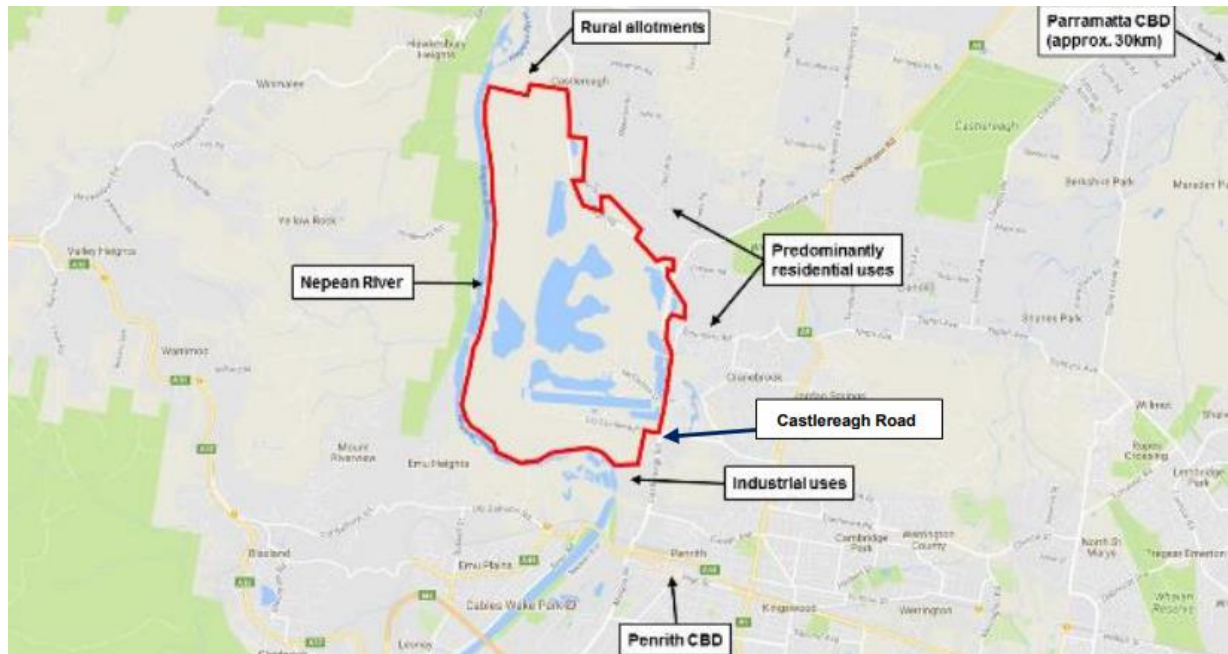


Figure 13 | Penrith Lakes Scheme boundary outlined in red

2 Proposed Development

2.1 Description of the Development

The application seeks consent for restoration works to the homestead and ancillary buildings. The main components of the development are identified in **Table 1** and described in full in the Statement of Environmental Effects (SEE) and Statement of Heritage Impact (SHI) report included in **Appendix A**.

Table 1 | Main Components of the Project

Aspect	Works Description
Main House	<ul style="list-style-type: none"> Removal of temporary structural supports Inspect and repair roof sheeting, treating rust and replacing any sheeting as required with new material to match Repair roof leaks Reinstate downpipes Repair damaged roof timbers, or replace with like if required Patch external repair cracks Remove render and treat with lime wash Reinstate verandah posts Replace concrete verandah with sandstone pavers Clearing of intrusive vegetation from around the building No future land use for the building is proposed.
Weatherboard Cottage	<ul style="list-style-type: none"> Remove concrete floor to expose underlying bricks Repair roof sheeting, treating rust Repair damaged roof timbers, or replace with like if required Reinstall doors and windows Remove external metal sheeting from façade and reinstate missing weatherboard cladding Reconstruct brick chimney with bricks on site.
Stables and Garage	<ul style="list-style-type: none"> Remove heavy objects from roof Remove shade cloth Remove garden beds Reconstruct façade with salvaged timber Reinstate metal sheeting, treating rust and replacing sheeting where necessary with like material
Creamery	<ul style="list-style-type: none"> Repair roof sheeting, treating rust and replacing sheeting where required Repair roof timbers if possible or replace with like. Reinstate weatherboard façade Treat timber posts Reconstruct shelving
Dairy, Milk Storage Shed and Race	<ul style="list-style-type: none"> Inspect and repair roof sheeting, treating rust and replacing any sheeting as required with new material to match Repair roof timers where possible and replace where required

	<ul style="list-style-type: none"> • New guttering proposed and downpipe repaired. • Resetting and/or replacing posts
Feed Store and Cow Bails	<ul style="list-style-type: none"> • Inspect and repair roof sheeting, treating rust and replacing any sheeting as required with new material to match • Replace all roof beans, ridge beams and battens • Resetting or replacing posts with like • Reinstate drainage
Hay Shed	<ul style="list-style-type: none"> • Remove concrete pads at base of posts • Install new timber and metal sheeting for the whole roof to match existing • Install retaining wall to level site • Splice posts
Guest House and Laundry	<ul style="list-style-type: none"> • Demolish both structures as they are intrusive and detract from the heritage significance • Remove power poles

2.2 Applicant's Need and Justification for the Development

The SHI includes the following statement that sets out the rationale and need for the project including that:

- the works largely focus on stabilising and strengthening to make the buildings structurally sound
- the works seek to prolong the buildings lifespan and the heritage significance retained
- the works would have a positive impact on the heritage significance of the site.

3 Statutory Context

3.1 Part 4 development

The development is located at Castlereagh in the Scheme area, as identified under the Western Parkland SEPP, and:

- is permissible with development consent under the Western Parkland SEPP
- is on unzoned land

Accordingly, the development is classified as a Part 4 development under the Environmental Planning and Assessment Act 1979 (EP&A Act).

The proposal was initially lodged as 'integrated development' pursuant to Division 4.8 of the EP&A Act as in order for it to be carried out, the proposal requires development consent under the EP&A Act and approval from Heritage NSW under Section 58 of the *Heritage Act 1977*. However, subsequently, Heritage NSW advised the Department that the works had already been granted approval under the Heritage Act and as such, the proposal was not integrated development.

3.2 Permissibility

The site is on land that is unzoned under the Western Parkland SEPP. Whilst the building currently does not have a land use, nor is one proposed, the development would be considered to be demolition and alterations to a dwelling house (being the buildings most recent land use) and farm buildings. These works are permissible with development consent in the unzoned land pursuant to clause 5.13 of the Western Parkland SEPP if the carrying out of development will not adversely affect the implementation of the Penrith Lakes Scheme and the use as a public recreational lake system upon completion.

3.3 Consent Authority

Under clause 5.7(a) of the Western Parkland SEPP, the Minister is the consent authority for development applications on land within the unzoned land and Employment, Environment, Parkland, Tourism or Waterway zones.

In accordance with the Minister's delegation dated 9 March 2022, the Director, Regional Assessments may determine the application as:

- Council has not made an objection
- there are less than 15 public submissions in the nature of objection
- a political disclosure statement has not been made.

3.4 Mandatory Matters for Consideration

The following are the relevant mandatory matters for consideration:

- the matters in section 4.15(1) of the EP&A Act
- relevant Environmental Planning Instruments (EPIs)
- objects of the EP&A Act
- Ecological Sustainable Development
- Environmental Planning and Assessment Regulation 2021 (EP&A Regulation).

The Department's consideration of these matters is set out below, **Section 5** and **Appendix B**.

Environmental Planning Instruments

The relevant environmental planning controls and guidelines that apply to the proposal include:

- State Environmental Planning Policy (Precincts – Western Sydney Parkland) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021

Detailed consideration of the provisions of all EPIs that apply to the development is provided in **Appendix B**. The Department is satisfied the development generally complies with the relevant provisions of these EPIs.

Objects of the EP&A Act

In determining the application, the consent authority should consider whether the development is consistent with the relevant objects of the EP&A Act. These objects are detailed in Section 1.3 of the EP&A Act.

The Department has considered the objects of the EP&A Act in its assessment of the application (see **Appendix C**) and is satisfied that the application meets the objects of the EP&A Act.

Ecologically sustainable development

The EP&A Act adopts the definition of ecologically sustainable development (ESD) found in the *Protection of the Environment Administration Act 1991*. Section 6(2) of that Act states that ESD requires the effective integration of economic and environmental considerations in decision-making processes.

The potential environmental impacts of the development have been assessed and, where potential impacts have been identified, mitigation measures and environmental safeguards have been recommended. As demonstrated by the Department's assessment in **Section 5** of this report, the development is not anticipated to have any adverse impacts on native flora or fauna, including threatened species, populations and ecological communities, and their habitats as there is no vegetation clearing proposed nor any vegetation in close proximity to the proposed works. As such, the Department considers that the development would not adversely impact on the environment and is consistent with the objectives of the EP&A Act and the principles of ES.

Environmental Planning and Assessment Regulation 2021 (EP&A Regulation)

Subject to any other references to compliance with the EP&A Regulation cited in this report, the requirements for fees (Part 13, Division 3) have been complied with.

3.5 Other approvals

The Applicant has not indicated that the proposal should be considered Integrated Development pursuant to clause 4.46 of the EP&A Act given the subject site comprises a State heritage item. In this instance, the approval under s60 of the Heritage Act was granted prior to the application being lodged.

4 Engagement

4.1 Department's engagement

In accordance with the requirements of Schedule 1 of the EP&A Act and the Department's Community Participation Plan, the Department publicly exhibited the application between Friday 24 February 2023 to Thursday 23 March 2023 (14 days) on the NSW Planning Portal. During the exhibition surrounding landowners, Penrith City Council (Council) and relevant state authorities were notified in writing.

4.2 Submissions and Advice

During the exhibition period, the Department received one submission from Council and advice from Heritage NSW (HNSW). No submissions were received from the community.

Council did not object to the application and provided the below comments:

- clarification of the correct Conservation Management Plan (CMP) which applies to the site
- further information on the materials proposed for the verandah around the main dwelling and the rationale for their use
- clarification whether bricks salvaged from the site are adequate for the reconstruction of the chimney for the weatherboard cottage
- recommended conditions related to employment of a Heritage Architect and Landscape Architect during construction and submission of a report prior to issue of an occupation certificate confirming that works have been undertaken in accordance with the approved plans.

HNSW advised that General Terms of Approval (GTA) were not required as the s60 approval for the works was already in place and requested that the integrated development approval request be withdrawn.

A link to the full copy of the submission and advice is provided in **Appendix A**.

4.3 Response to Submissions

Following notification, the Department placed the submission and advice on its website and requested the Applicant provide a response to the issues raised. The Department also requested the Applicant respond to issues raised by the Department related to:

- consideration of the NSW Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales
- details of stormwater treatment prior to disposal
- confirmation from a structural engineer that works will result in the buildings being made structurally sound
- details of the vegetation clearing being proposed.

The Applicant provided a Response to Submissions (RtS) package on 28 April 2023 responding to the issues raised outlining:

- the CMP identified by Council was incorrect, with the latest CMP being prepared in 2019
- details of the rationale for the use of the materials around the verandah
- details of the suitability for the salvaged bricks to be reused on site
- that relevant consultants have reviewed matters relating to Aboriginal heritage, stormwater and structural adequacy and found the works to be acceptable
- that no native vegetation or matures are proposed to be removed.

The RtS was made publicly available on the Departments website and referred to Council who advised they had no further comments however suggested that the Department review the s58 approval to confirm the works are consistent. The Department sought the following clarification of the RtS:

- a copy of the reviews or advice provided by the various consultants on the matters raised by the Department
- noting that a different stormwater discharge method was proposed in the RtS from that originally submitted, that the application acknowledge the change and consider its compliance against relevant guidelines
- confirmation of vegetation removal as documentation submitted still provided conflicting information about vegetation removal required.

4.4 Additional Information

On 31 May 2023, the Applicant provided a supplementary RtS which:

- included a copy of the consultant report or advice responding to the matters raised by the Department
- clarified the change to the stormwater discharge method was to ensure compliance with relevant guidelines
- clarified the only vegetation to be removed will be grass, weeds, vines or self-seeded saplings that are growing on the building or on the floor inside the building, and grass/weeds to be mowed or slashed near Cranebrook Creek

The assessment herein is based on the documents submitted with the submitted application, RtS and supplementary RtS.

5 Assessment

The Department has considered the SEE, Council comments, the RtS and supplementary RtS in its assessment of the development. The Department considers the key assessment issue to be heritage, stormwater and earthworks. Each of these matters are addressed separately below. A number of other issues have also been considered and assessed in **Table 2**.

5.1 European Heritage

The proposed development seeks to undertake partial demolition as well as restoration works to the Hadley Park Homestead and ancillary buildings, a State listed heritage item as outlined under **Section 2**. The Applicant provided a SHI to support the proposed works as well as a copy of the s60 approval from HNSW and the stamped architectural and engineering plans. The SHI outlined that the works:

- are required due to the poor condition of a number of buildings and the need to undertake restorative works now to stabilize the buildings
- would be undertaken with the existing materials where possible, although acknowledged that replacing with like materials would be required for some sections of buildings, or in some cases, the whole roof frame (as in the case for the hay shed)
- would have a positive impact on the heritage significance of the site given it is conservation, remediation and stabilisation, the proposal should prolong the lifespan of the buildings. For some buildings, the proposed works would reinstate features of the buildings that have been previously covered or had been removed
- are guided by the Conservation Management Plan that was prepared for the site and acknowledges that further works are likely required prior to any future use of the building.

Council did not object to the proposed works but sought clarification from the Applicant on matters as detailed in **Section 4**. As the application was lodged as an Integrated Development it was referred to HNSW who advised that the application did not require GTAs as the s60 approval under the Heritage Act 1977 had already been granted. HNSW also noted that a current modification to the s60 approval was being sought by the Applicant.

The Department sought clarification from the Applicant that the works within the s60 approval (and proposed by the modification to the s60) are consistent with the works proposed as part of this application.

In the RtS, the Applicant:

- confirmed that the works covered by the s60 approval, and the currently proposed modification, are consistent with the works proposed as part of this development application
- outlined the rationale for the use of the materials for the verandah
- provided a copy of the latest CMP for the site.

The Department referred the RtS to Council who raised no further issues.

The Department considers that the site is generally in poor condition arising from limited maintenance works that have resulted in the site falling into disrepair. The proposed works are a positive outcome for the site and its heritage significance and would reinstate the structural integrity of the buildings, prevent further damage to the buildings and prolong their lifespan. The Department acknowledges that works will likely require the replacement of various aspects of the buildings due to their poor condition.

The Department considers:

- that a Heritage architect should be employed to oversee the proposed works to ensure that they are undertaken appropriately. The Department notes that there is a similar requirement within the s60 approval, however the Department deems it prudent to extend the condition to include the requirements for the input from the heritage consultant on the selection of material replacements
- to ensure a historical record of items is available, a photographic archival record of the site be undertaken prior to works, during works and post works
- to ensure that appropriate measures are in place in the event that unknown items of heritage value are uncovered, it is recommended that an unexpected finds protocol be required to be prepared.

Subject to compliance with the requirements of the SHI and recommended conditions, the Department is satisfied that the proposal will have an overall benefit to the European heritage on the site as it will aid in restoring the heritage items and that the proposal is compliant with requirements of the Western Parkland SEPP as detailed in **Appendix B**.

5.2 Aboriginal heritage

The Applicant undertook an Aboriginal Heritage Information Management System (AHIMS) search on the subject site that identified no Aboriginal items or places within the subject site or within a 50m buffer around the site.

Neither HNSW nor Council raised Aboriginal heritage in their responses.

The Department requested the Applicant undertake a due diligence assessment in accordance with the NSW Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales.

In response Applicant submitted the Due Diligence assessment that highlighted that the presence of Aboriginal heritage items is unlikely, however works should proceed with care. The assessment recommended that an archaeologist be on site during excavation works and should unexpected Aboriginal objects or remains be found, works stop with the appropriate government department being notified.

The Department has reviewed the Statement of Environmental Effects and the Due Diligence assessment and considers that the works are unlikely to have an adverse impact on Aboriginal cultural heritage. Notwithstanding, the Department has recommended a condition requiring an unexpected finds protocol be prepared prior to works commencing to ensure that measures are in place should objects or Aboriginal cultural significance be uncovered and that a archaeologist be present during any excavation works.

Subject to compliance with the requirements of the Due Diligence assessment and recommended conditions, the Department considers that any impact to Aboriginal heritage can be appropriately managed.

5.3 Stormwater and Earthworks

The application seeks to undertake minor earthworks to implement new stormwater measures to assist in the drainage of stormwater from the site. The application also seeks to replace stormwater infrastructure for the Main Dwelling (downpipes and guttering) and divert the infrastructure to the stormwater network.

The Applicant provided hydraulic plans identifying the works to be undertaken that indicate that excavations for the stormwater would generally be 600mm in width and range in depth from 600mm to 900mm. The Applicant noted that a further s60 approval would be required for the earthworks as it does not form part of the existing s60 approval.

Neither HNSW or Council raised concerns about the proposed earthworks and stormwater works. HNSW advised that that Applicant was seeking a modification of the s60 approval to include the earthworks within their heritage approvals.

The Department sought further information to ensure that the works would comply with Council's stormwater requirement. In response, the Applicant provided advice from their stormwater consultant that confirmed works would adhere to Council requirements.

The Department considers that the works are necessary to ensure that suitable drainage is installed to allow for water to be diverted away from the buildings. However, given the extent of excavation, the Department notes the potential for archaeological relics to be encountered due to the depth and location of the works proposed. As such, as discussed further in Sections 5.1 and 5.2, the Department has recommended conditions requiring unexpected finds protocols be prepared outlining how unexpected Aboriginal and European heritage finds will be managed prior to any works commencing and that an archeologist be present during excavation works as recommended in the Aboriginal Due Diligence assessment. To ensure appropriate erosion and sediment controls are implemented during works, the Department has recommended that erosion and sediment controls plan be prepared prior to works commencing.

The Department considers that subject to implemented of the recommended conditions, the proposed stormwater and earthworks are acceptable.

5.4 Other issues

The Department's assessment of other issues is provided in **Table 2**.

Table 2 | Other Issues

Issue	Findings	Recommendations
Flooding	<p>The subject site is identified as being flood prone however the Applicant did not specifically address flooding as part of their application.</p> <p>The Department considers that:</p> <ul style="list-style-type: none"> the development does not propose any new structures or habitable space, and that the works proposed would improve the structural stability of the buildings to improve their resilience in flooding events the proposal does not approve occupation of the existing dwellings or structures to reduce the risk of flooding on the proposed works, the Department has recommended that the electrical work for the development should be located above the 1% AEP flood level to ensure construction worker safety, the Department has recommended that a Construction Flood Emergency Management Sub-Plan (FEMSP) be prepared and implemented during construction works, a copy of the FEMSP be kept onsite and emergency site exits be clearly marked. <p>The Department has further considered the development and flooding under Appendix B.</p> <p>Subject to recommended conditions, the Department is satisfied that the proposal is compatible with the flood hazard of the land.</p>	<p>The Department has imposed conditions requiring:</p> <ul style="list-style-type: none"> all electrical work to be located above the 1% AEP flood level a FEMSP be prepared and implemented emergency exit be marked onsite.
Future Land Use	<p>The Applicant has not proposed a future land use for the Main Dwelling or for the broader homestead site. The Applicant advised that the proposed works comprise Stage 1 of the restoration works, although has not foreshadowed future land uses.</p> <p>The Department has reviewed the submitted documentation and acknowledges that the works are to address considerable structural inadequacies of the building and undertake essential restoration works. As noted by the Applicant, the works are Stage 1 of the restorative project with the end goal being the future reuse of the building for a public purpose.</p> <p>To ensure reuse of the site does not commence prior to further works being undertaken, the Department has recommended a condition that separate consent be obtained prior to use of the building. Subject to the recommended condition, the Department considers that the application can be approved in its current form, without a land use being assigned to the building.</p>	<p>The Department has imposed a condition requiring separate development consent to be obtained prior to any future use of the building.</p>
Vegetation removal	<p>The application seeks to clear invasive vegetation from around the main dwelling including weeds and saplings. No plan of the vegetation removal was provided with the initial application.</p> <p>The Department sought further information to outline what vegetation is required to be removed as part of the works.</p> <p>As part of the supplementary RtS, the Applicant provided plans, prepared by a landscape architect with heritage experience, that identified that only Privet, Lantana and Tobacco shrubs/trees would</p>	<p>No conditions are required.</p>

Issue	Findings	Recommendations
	<p>be removed from the site and confirmed that no native vegetation would be removed. Additionally, general maintenance work has weed removal, grass mowing and shrub trimming will also be undertaken.</p> <p>The Department notes that vegetation removal is limited to invasive and weed species and that native tree removal is not proposed. The Department is satisfied that the development would not have an adverse impact on the biodiversity values of the site and will aid in restoring the landscape setting of the heritage items.</p>	
Structural stability	<p>The Applicant advises that the proposed works are required to address structural issues that have developed from poor maintenance of the buildings. The application was supported by drawings from a structural engineer that outlines the works to be undertaken to the main dwelling and weatherboard cottage as well as typical details of works to be undertaken to other structures. A report from a structural engineer was not provided to accompany the drawings.</p> <p>The Department requested that the Applicant provide written confirmation from the project structural engineer that the works would assist in making the building structurally sound.</p> <p>In response, the Applicant provided correspondence from the structural engineer that confirmed the works are in accordance with various Australian Standards and would assist in improving the structural condition of the various buildings.</p> <p>The Department is notes that occupation of the building does not form part of this development and that further works may be needed to make the buildings habitable. The Department is satisfied that the works would have a positive impact on improving the structural stability of the various buildings.</p>	<p>The Department has imposed conditions requiring detail plans, prepared by a structural engineer, demonstrating compliance with the consent be prepared.</p>
Section 7.12 Developer Contributions	<p>The cost of works associated with this application would ordinarily trigger the need for payment of development contributions. However, the Department notes that the works are contribute to the restoration of the homestead, with the overall end goal of all restorations works (including to be undertaken in future via separate approvals) being the reuse of the heritage significant building. Pursuant to clause 208(4)(m) of the EP&A Regs, the costs associated with the reuse of a heritage item are not to be included in the calculation of the cost of a development. As such, the Department considers that the development would not require the payment of development contributions.</p>	<p>No conditions are required.</p>

6 Evaluation

The Department has assessed the development application and supporting information in accordance with the matters for consideration under Part 4 of the EP&A Act, including SEPP (Precincts – Western Parkland City) 2021 and other relevant environmental planning instruments. The Department's assessment concludes the proposed development is acceptable as:

- it is permissible with development consent on unzoned land under the Western Parkland SEPP and consistent with the objectives of the SEPP
- it will aid in preserving an item of State heritage significance
- it will undertake works to provide essential services such as stormwater and electrical work to ensure the longevity of the site.

The Department's assessment therefore concludes the proposal is acceptable and is in the public interest. The Department recommends the application be approved, subject to the recommended conditions (**Appendix D**).

7 Recommendation

It is recommended that the Director, Regional Assessments, as delegate of the Minister for Planning and Public Spaces:

- **considers** the findings and recommendations of this report
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to approve the application
- **agrees** with the key reasons for approval listed in the notice of decision
- **grants consent** for the application in respect of DA 23/907, subject to the conditions in the attached development consent
- **signs** the attached development consent and recommended conditions of consent.

Prepared by:

Chris Eldred
Senior Planning Officer
Regional Assessments

Recommended by:



Michelle Niles
A/Team Leader
Regional Assessments

8 Determination

The recommendation is **Adopted** by:

A handwritten signature in blue ink, appearing to read 'K T' followed by a long horizontal stroke.

Keiran Thomas

Director

Regional Assessments Team

as delegate of the Minister for Planning

Appendices

Appendix A – List of Documents

The Department relied upon the following key documents during its assessment of the proposed development:

Statement of Environmental Effects

<https://www.planningportal.nsw.gov.au/hadley-park>

Submissions

<https://pp.planningportal.nsw.gov.au/hadley-park>

Response to Submissions (RtS)

<https://pp.planningportal.nsw.gov.au/hadley-park>

Supplementary RtS

<https://www.planningportal.nsw.gov.au/hadley-park>

Appendix B – Statutory Considerations

In line with the requirements of section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act), the Department's assessment of the proposal has included detailed consideration of a number of statutory requirements. These include:

- the objects found in section 1.3 of the EP&A Act; and
- the matters listed under section 4.15(1) of the EP&A Act, including applicable environmental planning instruments and regulations.

The Department has considered all of these matters in its assessment and has provided a summary in Error! Reference source not found. and **Table 4** below.

Table 3 | Considerations Against the Objects of the EP&A Act

Object	Consideration
(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,	The proposal seeks to preserve an item of State heritage significance which would have a positive social impact.

(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,	The Department is satisfied the development can be carried out in a manner that is not inconsistent with the principles of ESD.
(c) to promote the orderly and economic use and development of land,	The proposal involves the orderly and economic use of land through the preservation of built form.
(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities,	The Department considers the proposal would not result in unacceptable environmental impacts.
(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),	The development seeks to preserve an item of State heritage.
(g) to promote good design and amenity of the built environment,	The Department considers the proposal would not result in unacceptable built form impacts given no additional structures are being erected.
(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,	The proposal will improve the structural adequacy of buildings with a view to make them safe to enter.
(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,	The Department referred the development to relevant government agencies and Council during the exhibition period and invited them to comment. The Department has given due consideration to their advice.
(j) to provide increased opportunity for community participation in environmental planning and assessment.	The Department exhibited the application as outlined in Section 4 .

Table 4 | Matters for Consideration under Section 4.15 of the EP&A Act

Matter	Consideration
a) the provisions of: i.) any environmental planning instrument, and	The Department has considered the relevant environmental planning instruments in its assessment of the development. Details of the assessment is provided further below in Appendix B .
ii.) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and	In August 2021, an amendment to the then Penrith Lakes Scheme SEPP was exhibited. The amendment seeks to updating mapping to allow compatibility with the Planning Portal, improve provisions related to solar access and views, ensure flood evacuation is considered for all land use proposals, amend the satisfactory arrangement clause and introduce new land uses. The Department has reviewed the proposal

	against the proposed amendment and notes that the changes do not impact the the proposal.
iii.) any development control plan, and	The Department has considered the relevant development control plan in its assessment of the development.
iii.) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and	The Applicant has not entered into a planning agreement under Section 7.4 of the EP&A Act.
iv.) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates,	The Department has assessed the development in accordance with all relevant matters prescribed by the regulations, the findings of which are contained in this report.
b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,	The Department has considered the likely impacts of the development in detail in Section 5 of this report. The Department concludes that all environmental impacts can be appropriately managed and mitigated through the recommended conditions of consent.
c) the suitability of the site for the development,	
d) any submissions made in accordance with this Act or the regulations,	All matters raised in submissions have been summarised in Section 4 of this report and given due consideration as part of the assessment of the development in Section 5 of this report.
e) the public interest.	The Department considers the proposal to be in the public interest (refer to Section 4).

State Environmental Planning Policy (Precincts – Western Parkland City) 2021

The primary EPI that applies to the site is Chapter 5 of the State Environmental Planning Policy (Precincts – Western Parkland City) 2021 (Western Parkland SEPP). The proposal is consistent with the aims of the Western Parkland SEPP and has been assessed against relevant provisions of the SEPP as outlined in **Table 5**.

Table 5 | Chapter 5 of Western Parkland SEPP

Requirement	Comment
<i>Part 5.1 Preliminary</i>	
5.1 Aims of Chapter	The proposal is considered to satisfy the aims of the Chapter as it seeks to undertake works to aid in the protection and restoration of environmental heritage and which will not impact the implementation of the Penrith Lakes Scheme. The proposal also will not detrimentally impact the ongoing operation of Olympic legacy infrastructure
5.7 Consent Authority	The site is located on 'unzoned' land and as such, the Minister is the consent authority.
<i>Part 5.2 Development control</i>	

Requirement	Comment
<p>5.13 Interim development on unzoned land</p> <p>(1) Development may be carried out on unzoned land—</p> <p>(a) for the purpose of agriculture, without the necessity for development consent, or</p> <p>(b) for any other purpose, with development consent, if the consent authority is satisfied that the carrying out of development for that purpose will not adversely affect the implementation of the Penrith Lakes Scheme, pending the completion of the Penrith Lakes Scheme in, and the use as a public recreational lake system of, that part of the land.</p> <p>(2) Despite any other provision of this Chapter, any other environmental planning instrument that applies to unzoned land continues to have effect in relation to that land.</p>	<p>The subject site is on unzoned land. The development seeks to undertake restoration and remediation works to existing dwellings and structures on the site. The works do not seek to construct new structures on the site, and as such, is not considered to adversely affect the implementation of the Penrith Lakes Scheme.</p>

Part 5.3 Permitted or prohibited development on zoned land

The site is located in on unzoned zoned land, as such this Section does not apply. Pursuant to clause 5.13, the proposed development is permissible with development consent.

Part 5.4 Development standards for certain zoned land

The provisions of this Part do not apply to the site as the proposal is not proposing to subdivision the site (s5.23), is not located near a zone boundary (s5.24), is not for an identified miscellaneous use (s5.25) and no DCP applies to the site does that prescribes vegetation for the purposes of the section (s5.26).

Part 5.5 Additional provisions for zoned land

The site is located on unzoned zoned land, as such this Part does not apply.

Part 5.6 Miscellaneous provisions

<p>5.33 Heritage conservation</p> <p>(1) Objectives The objectives of this section are as follows—</p> <p>(a) to conserve the environmental heritage of Penrith,</p> <p>(b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,</p> <p>(c) to conserve archaeological sites,</p> <p>(d) to conserve Aboriginal objects and Aboriginal places of heritage significance.</p> <p>(4) Effect of proposed development on heritage significance: The consent authority must, before granting consent under this section in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subsection applies regardless of whether a heritage management document is prepared under subsection (5) or a heritage conservation management plan is submitted under subsection (6).</p>	<p>(1) The site is identified as a State Heritage Item with this development seeking to undertake restoration and remediation works to aid in preserving the heritage significance of the site and its structures. The Department considers that the development would conserve the heritage significance of the site as considered in Section 5 of this report.</p> <p>(4) The application was accompanied by a Statement of Heritage Impact (SHI). The Department considers that the development is seeking to preserve the heritage significance of the site through restoration and remediation works. The structures are currently in poor condition and are at risk of further deterioration without the works being undertaken. Further to this, the works seek to remove unsympathetic structures that detract from the significance of the site.</p> <p>The Department considers that the proposed works would not adversely impact the heritage significance of the site as considered under Section 5.</p>
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Requirement	Comment
<p>(5) Heritage assessment The consent authority may, before granting consent to any development—</p> <p>(a) on land on which a heritage item is located, or</p> <p>(b) on land that is within a heritage conservation area, or</p> <p>(c) on land that is within the vicinity of land referred to in paragraph (a) or (b), require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned</p> <p>(6) Heritage conservation management plans The consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this section.</p> <p>(7) Archaeological sites</p> <p>(8) Aboriginal places of heritage significance The consent authority must, before granting consent under this section to the carrying out of development in an Aboriginal place of heritage significance—</p> <p>(a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and</p> <p>(b) notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.</p> <p>(9) Demolition of nominated State heritage items The consent authority must, before granting consent under this section for the demolition of a nominated State heritage item—</p> <p>(a) notify the Heritage Council about the application, and</p> <p>(b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.</p> <p>(10) Conservation incentives</p>	<p>(5) The development was accompanied by a SHI that considered the affect that the proposed works would have on the heritage significance of the site and that the works are consistent with a previously prepared Conservation Management Plan for the site.</p> <p>The SHI concludes that the proposed works would preserve the heritage significance of the site through the restoration and remediation works</p> <p>(6) A heritage conservation management plan has previously been prepared for the site. The works proposed under this application are consistent with the management plan.</p> <p>(7) The site is not identified as an archaeological site.</p> <p>(8) A due diligence assessment of the site's potential for Aboriginal heritage and the assessment considered the site as containing low potential for heritage significance. The Department has also recommended that a archaeologist with Aboriginal heritage experience be present during excavation works in accordance with the recommendation of the due diligence assessment and that an unexpected finds protocol be implemented.</p> <p>(9) The proposal was referred to Heritage NSW for comment. Refer to Section 4 of this report.</p> <p>(10) Not applicable as the proposal is permissible with development consent under this Chapter.</p>

Requirement	Comment
<p>5.36 Earthworks</p> <p>1) The objective of this section is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.</p> <p>(3) Before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters—</p> <p>(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,</p> <p>(b) the effect of the development on the likely future use or redevelopment of the land,</p> <p>(c) the quality of the fill or the soil to be excavated, or both,</p> <p>(d) the effect of the development on the existing and likely amenity of adjoining properties,</p> <p>(e) the source of any fill material and the destination of any excavated material,</p> <p>(f) the likelihood of disturbing relics,</p> <p>(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,</p> <p>(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development</p>	<p>(1) The development proposes minor earthworks in conjunction with stormwater works. The works will involve the excavation of trenches to install stormwater infrastructure, with the trenches to be filled in upon completion of the works.</p> <p>In consideration of the points under clause 5.36(3), the Department notes:</p> <p>a) that the works will not impact drainage lines or soil stability subject to suitable erosion and sediment controls being implemented during construction.</p> <p>b) the works will not impact upon the likely future use of the land.</p> <p>c) the soil would be suitable for reuse on site.</p> <p>d) the works are located a significant distance from the boundary and will not have an impact on the amenity of adjoining properties</p> <p>e) no fill is anticipated to be required on site</p> <p>f) conditions requiring unexpected finds protocol be prepared and implemented have been recommended</p> <p>g) subject to the erosion and sediment controls being implemented during works, the Department considers the works will not impact any waterway, drinking water catchment or sensitive area</p> <p>h) as per above, erosion and sediment controls and unexpected finds protocols are recommended to be implemented during construction works.</p>

Requirement	Comment
<p>5.38 Flood Planning</p> <p>(1) The objectives of this section are as follows—</p> <p>(a) to minimise the flood risk to life and property associated with the use of the land,</p> <p>(b) to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change,</p> <p>(c) to avoid significant adverse impacts on flood behaviour and the environment.</p> <p>(2) Development consent must not be granted for development on land to which this Chapter applies that is at or below the flood planning level unless the consent authority is satisfied that the development—</p> <p>(a) is compatible with the flood hazard of the land, and</p> <p>(b) is not likely to significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and</p> <p>(c) incorporates appropriate measures to manage risk to life from flood, and</p> <p>(d) is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and</p> <p>(e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.</p> <p>(3) Development consent must not be granted for development on land zoned Employment, Residential or Tourism unless the consent authority is satisfied that the development will not adversely affect the safe and effective evacuation of the land and the surrounding area.</p>	<p>(1) The subject site is identified as being flood prone.</p> <p>(a) and (b) The development does not seek to introduce a new land use or propose to construct a building. The proposed works will improve the structural stability of the existing buildings on site and in turn reduce risk to property given the buildings would be more resilient in flooding events.</p> <p>(c) as no new buildings are proposed, the Department considers the development would not have an impact on flood behaviour</p> <p>The Department is satisfied that the development is consistent with the objectives of this clause.</p> <p>(2) The Department has considered the points (a) to (e) below:</p> <p>(a) The development does not seek to introduce new buildings or land uses to the site, and simply seeks to improve the structural stability of the existing structures.</p> <p>(b) Given no buildings are proposed and no change to the existing landform is proposed the development, the Department considers the development would not impact the flood behaviour or affectation to adjoining properties</p> <p>(c) Conditions of consent are recommended to require all electricity services to be above the flood planning level</p> <p>(d) Given no new buildings or changes in land form are proposed, it is considered that the development would not adversely impact the environment</p> <p>(e) Based on the above, the Department considers that the development would not result in an unsustainable social or economic cost.</p> <p>(3) Not applicable as the site is located on 'unzoned' land.</p>

Part 5.7 Urban release areas

The site is not located within an Urban Release Area as such this Part does not apply.

State Environmental Planning Policy (Resilience and Hazards) 2021 (Reliance and Hazards SEPP)

The Resilience and Hazards SEPP includes the provisions of the former State Environmental Planning Policy (Coastal Management) 2018 (Costal Management SEPP), State Environmental Planning Policy No. 33 Hazardous and Offensive Development (SEPP 33) and the State Environmental Planning Policy No. 55 Remediation of Land (SEPP 55).

Chapter 4 of the Resilience and Hazards SEPP contains the provisions of the former SEPP 55. The chapter aims to provide a State-wide approach to the remediation of contaminated land. In particular, it aims to promote the remediation of contaminated land to reduce the risk of harm to human health and the environment by specifying:

- under what circumstances consent is required
- the relevant considerations for consent to carry out remediation work
- the remediation works undertaken meet certain standards and notification requirements.

The Applicant did not submit a contamination assessment with the application. Notwithstanding, the Department has considered the suitability of the site for the proposed works and notes:

- the works are minor in nature with only minor earthworks for stormwater proposed subsurface
- the site is not identified on the NSW EPA Contaminated Land Register
- the site has previously been used for residential and agricultural purposes with no known contaminating processes having occurred
- the land use of the site is not proposed to change as part of this application

Given the information available, the Department considers that the site is suitable in its current state without the need for further investigation or remediation works. The Department considers it prudent to for an Unexpected Finds Protocol be prepared and implemented during construction works should unforeseen finds be discovered.

Penrith Lakes Development Control Plan Stage 1

The Penrith Lakes Development Control Plan Stage 1 applies to all land zoned Tourism or Employment under Chapter 5 of the State Environmental Planning Policy (Precincts – Western Parkland City) 2021. Given the subject site is not within the Tourism or Employment zones, the DCP is not applicable to the development.