

Penrith Planning Proposal - The Knoll

Proposal Title : Penrith Planning Proposal - The Knoll

Proposal Summary : The Planning Proposal seeks to rezone No.17-53 Caddens Road, Kingswood (the Site - also known as 'the Knoll'), for low density residential development (up to 45 lots) and the dedication of a proposed public reserve.

The site is approximately 7.5 hectares in size and is currently zoned (11,000m²) Part 2(b) residential under Penrith Local Environmental Plan 1998 (Urban Land) and 1(a) Agricultural Protection under Sydney Regional Environmental Plan No. 25 (Orchard Hills).

PP Number : PP_2012_PENRI_001_00 **Dop File No :** 12/14653-1

Proposal Details

Date Planning Proposal Received : 25-Sep-2012 **LGA covered :** Penrith

Region : Sydney Region West **RPA :** Penrith City Council

State Electorate : PENRITH **Section of the Act :** 55 - Planning Proposal

LEP Type : Spot Rezoning

Location Details

Street : Caddens Road

Suburb : Kingswood **City :** Sydney **Postcode :** 2750

Land Parcel : Lot 21, DP1151724

DoP Planning Officer Contact Details

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RPA Contact Details

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DoP Project Manager Contact Details

Contact Name : Stephen Gardiner

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Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	Metro North West subregion	Consistent with Strategy :	Yes
MDP Number :	n/a	Date of Release :	
Area of Release (Ha) :	7.50	Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	45	No. of Dwellings (where relevant) :	45
Gross Floor Area :	0	No of Jobs Created :	0
The NSW Government Lobbyists Code of Conduct has been complied with :	Yes		
If No, comment :	In relation to the Lobbyist Code of Conduct there are no records on the Department's Lobbyist Contact Register regarding this matter.		
Have there been meetings or communications with registered lobbyists? :	No		
If Yes, comment :	To the best of the Regional Team's knowledge, there have been no meetings with registered lobbyists.		

Supporting notes

Internal Supporting Notes : The Planning Proposal seeks to rezone No.17-53 Caddens Road, Kingswood (the Site - also known as 'the Knoll'), for low density residential development (up to 45 lots) and the dedication of a proposed public reserve.

The Site represents a 'residual lot' from the original 1982 residential subdivision that now surrounds it – known as South Kingswood. The Knoll was not rezoned at the same time as the rest of the residential estate because of a servicing constraint, namely the supply of potable water above an RL of 72 metres AHD. Sydney Water has now confirmed that the servicing constraint on the Site has been overcome, advising that potable water can now be supplied to an RL of 80 rather than 72 metres AHD. It is proposed that the site be included in Penrith LEP 2010 as an amendment.

The Site is predominantly unfenced and is used informally by the surrounding residents as unimproved open space. Attachment 1 provides a location map.

The Planning Proposal submitted by the RPA was incomplete and unclear. Clarification was sought from Council on a number of issues and additional information was provided by Council - including:

- missing maps (sent via email and attached)
- refined details for the proposal including:
 - *a notable public recreation area (2 ha) at the highest, and most visible point of the site;
 - * 45x 650m2 lots with 0.5:1 FSR and height restrictions to limit dwellings to 2 storeys,
 - *prohibit dual occupancies via a site-specific provision.

Whilst the intention of the proposed R2 residential zone is intended to be the lowest density residential zone, and multiple dwellings, including attached or detached dual occupancies may not be appropriate in rare specific circumstances, and indeed are not a mandated use for the zone, the proposed restriction is problematic for two reasons:

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1. It unfairly restricts the development, and therefore the future residents of the site in a way that surrounding residents are not restricted; and

2. There does not appear to be a good reason for the unnecessary restriction to this specific site – the request for a site specific local provision creates unnecessary and unjustifiable complexity. Accordingly, an additional local provision is not supported, and the proposed “clause application map (CA_002)” should be deleted from the proposal.

The proposal requests the repeal of Sydney Regional Environmental Plan No. 25 (Orchard Hills) (SREP25). As the site is a deferred matter from the Penrith LEP 2010, it is the last parcel of land where SREP 25 applies. The proposal contains extensive justification for why this SREP is no longer relevant. The SREP attempts to retain and protect agricultural land. In rezoning the majority of the SREP area, Penrith LEP 2010 repealed the application of the SREP – the current proposal simply completes the repeal of the SREP. The repeal of SREP 25 is supported.

External Supporting
Notes :

Political donations disclosure laws commenced on 1 October 2008. The legislation requires the public disclosure of donations or gifts for certain circumstances relating to the Planning system.

"The disclosure requirements under the new legislation are triggered by the making of relevant planning applications and relevant public submissions on such applications.

The term relevant planning application means:

- A formal request to the Minister, a council or the Director-General to initiate the making of an environmental planning instrument..."

Planning Circular PS 08-009 specifies that a person who makes a public submission to the Minister or Director General is required to disclose all reportable political donations (if any).

The Department has not received any disclosure statements for this Planning Proposal.

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? Yes

Comment : The Proposal has the following objective:

"The objective of this proposal is to enable the development of the Caddens Knoll site (Lot 21 DP1151724) for residential dwellings and public open space in a manner which is consistent with the existing character of the surrounding area."

The objective is consistent with the Department's "A Guide to preparing Planning Proposals".

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? Yes

Comment : The proposal includes the following explanation of provisions, as revised following discussions and emails with council officers, including the provision of the missing mapping (as attached)

The Site is currently zoned under two environmental planning instruments, Penrith Local Environmental Plan 1998 (Urban Land) (LEP 1998) and Sydney Regional Environmental Plan No. 25 (Orchard Hills) (SREP 25). Approximately 11,000m² of the Site is zoned '2(b) Residential' under LEP 1998; with the remainder of the Site zoned '1(a) Agricultural Protection' under SREP 25.

This Proposal aims to amend LEP 2010 and SREP 25 in the following ways:

- LEP 2010: Introduction of zones and development standards to provide for approximately 5.5 hectares of land for low density residential development and approximately 2 hectares of land for public open space.

- SREP 25: Repealed in its entirety.

In order to deliver the requested rezoning, this Planning Proposal seeks to amend LEP 2010 in the following manner:

- Amend Clause 1.8 Repeal of Instruments Applying to Land to include a new subclause: (1B) Sydney Regional Environmental Plan No 25 – Orchard Hills;

- Amend the Land Use Table to introduce the R2 Low Density Residential Zone as per the Standard Instrument Template;

- Amend Part 6 Additional Local Provisions to insert a site specific local provision that prevents the development of dual occupancies;

Amend the following maps:

a. Land Application Map (LAP_001) to remove text 'DM' and red polygon

b. Clause Application Map (CA_002) to amend hatched polygon to highlight application of new additional local provision.

c. Land Use Zone Map (LZN_013) to remove text 'DM' and red polygon; and replace with proposed R2 Low Density Residential and RE1 Public Recreation zones.

d. Lot Size Map (LSZ_013) to include minimum lot size of 650m² for portion of site zoned R2 Low Density Residential.

Create the following maps :

a. Floor Space Ratio Map (FSR_013) to include a maximum floor space ratio of 0.5:1 for the portion of the site zoned R2 Low Density Residential

b. Height of Building Map (HOB_013) to provide an appropriate development standard in relation to height. Technical analysis is currently being undertaken to determine the standard to be displayed on this map to take into account the topography of the site and limit dwellings to 2-storeys.

The explanation of provisions is consistent with the Department's "A Guide to preparing Planning Proposals". The proposal to prohibit dual occupancies has been discussed and will be appropriately conditioned.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? No

b) S.117 directions identified by RPA :

* May need the Director General's agreement

1.5 Rural Lands

2.1 Environment Protection Zones

2.3 Heritage Conservation

3.1 Residential Zones

3.3 Home Occupations

3.4 Integrating Land Use and Transport

5.2 Sydney Drinking Water Catchments

6.2 Reserving Land for Public Purposes

6.3 Site Specific Provisions

7.1 Implementation of the Metropolitan Plan for Sydney 2036

Is the Director General's agreement required? **Yes**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **No**

d) Which SEPPs have the RPA identified? **SEPP No 19—Bushland in Urban Areas**
 SEPP No 55—Remediation of Land
 SREP No 25—Orchard Hills

e) List any other matters that need to be considered : **It is considered that the planning proposal is either consistent or justifiably inconsistent with all the applicable s117 Directions with the exception of Direction 6.3 Site Specific Provisions, which is not supported.**

DIRECTION 1.5 - RURAL LANDS and SYDNEY REGIONAL ENVIRONMENTAL PLAN NO. 25 (ORCHARD HILLS) SREP 25

It is considered that the planning proposal is justifiably inconsistent with these directions as the site is a deferred matter from the Penrith LEP 2010, it is the last parcel of land where SREP 25, which retains and protects rural land, applies. The proposal contains extensive justification for why this SREP is no longer relevant, including the remnant and small nature of the site. Removing the rural zone on the site would also have negligible impact on rural activities in the Kingswood/Orchard Hills locality as the site has not been used for agricultural uses since 1965. Commencing new agricultural uses on the site are considered incompatible with its current residential context (amenity issues such as odour, machinery noise and large truck movements) and its topography which limits the use of the site to grazing which is not appropriate in an established residential area.

It is considered that the proposed inconsistency with Direction 1.5 is unlikely to establish a precedent as the lot is a residual lot in a residential area and that earlier development has not been possible due to site specific servicing constraints.

In rezoning the majority of the SREP area, Penrith LEP 2010 repealed the application of the SREP – the current proposal simply completes the repeal of the SREP. The repeal of SREP 25 is supported. The Director –General's, or his delegate's, agreement to the inconsistency with the 117 Directions is required.

DIRECTION 2.1 - ENVIRONMENTAL PROTECTION ZONES

The Ecological and Bushfire Assessment Study reviewed the proposal and found Cumberland Plain Woodland (CPW) on site in five small patches.

Under s69 of the Threatened Species Conservation Act, Recovery Plans are required to be considered during the planning process. The Cumberland Plain Recovery Plan has been considered, and the subject land is not identified as a priority conservation area. To ensure there are no outstanding environmental issues, it is recommended that the applicant consult with the Office of Environment and Heritage.

DIRECTION 3.1 - RESIDENTIAL ZONES

The proposed rezoning will enable the efficient use of existing infrastructure and services in the surrounding area, be consistent with the surrounding land which is zoned residential, and will allow increased choice for residential locations. The proposed rezoning will allow for the infill of the subject site for residential purposes to continue the residential land use pattern north of Caddens Road. The proposed zoning of the land to R2 Low Density Residential is consistent with this Direction.

DIRECTION 3.4 - INTEGRATED LAND USE AND TRANSPORT

The Site is serviced by existing bus services which are able to be augmented as required. Furthermore, the proposal meets the objectives for 'new residential areas' as it adjoins an existing urban footprint and is within 5km of Kingswood Train Station.

DIRECTION 6.2 - RESERVING LAND FOR PUBLIC PURPOSES

It is proposed to include provisions within the planning proposal to zone a 2ha portion of the Site for Public Recreation. Council have advised the Department, via email, that as landowner, Landcom have offered to dedicate the land to Council and will outline a VPA to this effect, Council intend to exhibit the VPA with the proposal.

The Director-General's agreement is required.

DIRECTION 6.3 - SITE SPECIFIC PROVISIONS

The planning proposal seeks to include a site specific provision to prohibit dual occupancies from the site. Whilst the intention of the proposed R2 residential zone is intended to be the lowest density residential zone, and multiple dwellings, including attached or detached dual occupancies may not be appropriate in rare specific circumstances, and indeed are not a mandated use for the zone, the proposed restriction is problematic for three reasons:

1. It unfairly restricts the development, and therefore the future residents of the site in a way that surrounding residents are not restricted; and
2. there does not appear to be a good reason for the unnecessary restriction to this specific site – the request for a site specific local provision creates unnecessary and unjustifiable complexity; and
3. the provision would create a subclause within the R2 zone, which prohibits dual occupancy.

It is considered that this specific provision is not justifiably inconsistent and Council should be asked to remove this provision/clause, and the proposed "clause application map (CA_002)" should be deleted from the proposal.

Instead, it is recommended that Council insert a minimum lot size map for dual occupancies.

Have inconsistencies with items a), b) and d) being adequately justified? Yes

If No, explain :

It is considered that whilst most of the inconsistencies with s117 Directions are justified, the inconsistency with Direction 6.3 - Site Specific Provisions is not justifiably inconsistent and Council should be asked to remove this additional local provision, and the proposed "clause application map (CA_002)" from the proposal. Instead, Council may consider inserting a minimum lot size for dual occupancies map which would assist in controlling the extent and density of this use.

It is suggested that in order to guarantee a lower density built form, that dual occupancies only be permitted on larger allotments of land, such as lots of 800m2, and an additional map be prepared that indicates this minimum lot size for dual occupancies.

Mapping Provided - s55(2)(d)

Is mapping provided? Yes

Comment :

Should Council wish to pursue it, a minimum lot size map for dual occupancies could be provided prior to exhibition.

Community consultation - s55(2)(e)

Has community consultation been proposed? Yes

Comment :

Consultation is referred to in the Proposal but not specified.

Given the local community interest in the site, it is considered appropriate to consult the community for 14 days.

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

Proposal Assessment

Principal LEP:

Due Date : **October 2013**

Comments in relation to Principal LEP : **The Principal Local Environmental Plan is proceeding in 2 Stages.**

STAGE 1 -

Applies to predominately rural, environmental and industrial land in the local government area.

Penrith Local Environmental Plan 2010 was published on 22 September 2010.

STAGE 2 -

Is being progressed as a Planning Proposal and will apply to all land within the Local Government Area (a Comprehensive Local Environmental Plan). It will amend Stage 1, and rezone land affected by Penrith City Centre Local Environmental Plan and other 'look-a-like' Local Environmental Plans and bring forward all remaining land. It includes a number of rezonings in the residential and business zones.

A Gateway Determination was issued on 8 August 2011. It is anticipated that the plan could be completed by October 2013 – awaiting formal agreement to this date.

The subject planning proposal will amend Penrith LEP 2010.

Assessment Criteria

Need for planning proposal :

The planning proposal represents a logical infill of a deferred matter, thereby removing the application of outdated instruments and allowing the logical development to match surrounding developments. The planning proposal would facilitate the repeal of SREP 25 by rezoning the last remaining site covered by this Plan.

The planning proposal also presents an opportunity to rezone and deliver 45 additional dwellings within the next 5 years if supported.

Consistency with strategic planning framework :

The planning proposal is generally consistent with the strategic planning framework, including the Metropolitan Plan for Sydney 2036.

Environmental social economic impacts :

The potential environmental and social impacts have been addressed in Council's proposal, which is supported by technical and planning studies.

Landcom has made a rezoning application that seeks the rezoning of the Site to provide approximately 5.5 hectares of land for low density residential development and approximately 2-hectares of land for public open space. The area of the Site identified for low density residential development is not subject to the identified servicing constraint.

Landcom have estimated that the Site could yield up to 45- 650m2 lots.

Council has recently considered the rural zoned part of the Site in Stage 1 of the City-wide Local Environmental Plan, now published as Penrith Local Environmental Plan 2010 (LEP 2010). However, in considering a submission made by Landcom in response to the exhibited draft of LEP 2010 and submissions made by adjoining landowners, Council resolved to defer the Site to Stage 2 of the City-wide Local Environmental Plan (the City-wide Plan) to allow Landcom to pursue a rezoning application. Subsequent to this, Landcom prepared several iterations, each proposing a variety of lot sizes and layouts.

Community consultation exercises, carried out by Landcom, revealed a strong community opposition to the proposed development layouts, it appears there is some reluctance to relinquish the undeveloped land, the final proposal reflects compromises to accommodate these community concerns.

The rezoning application is supported by a number of technical studies including: traffic impacts, Aboriginal heritage, biodiversity, bushfire, servicing, stormwater management, and land contamination studies. Council's report recommends that 3 further studies, or augmentation to existing work be undertaken prior to community and agency consultation:

- **Stormwater Management Strategy:** Although the current Stormwater Management Report (8 May 2012) confirms that the storm-water run-off can be managed. It does not provide sufficient information to confirm that the currently proposed solution is the most appropriate, sustainable and cost-effective solution currently available. An updated report will determine whether the current solution is the most appropriate in this instance.
- **Phase 2 Environmental Site Assessment:** A more detailed investigation to provide information about the extent and degree of the identified contaminants present on the Site. The Phase 1 Environmental Site Assessment identified 'hot-spots' of contamination from illegal dumping activities. The contaminants are not linked to any previous or historical land use. This Assessment, when complete, will inform a plan of remediation. If the 'hot-spots' can not be remediated to a standard suitable for the proposed residential development, the boundaries of the proposed zones will need amending to exclude these areas.
- **Stage 2 Road Safety Audit:** To identify and eliminate potential safety hazards before the design and construction of new roads and intersections, including their integration into the planned residential development is undertaken. This will inform the design of and may indicate a different location for the proposed roads and road junctions.

These reports may be carried out during the rezoning process.

Assessment Process

Proposal type :	Minor	Community Consultation Period :	14 Days
Timeframe to make LEP :	12 Month	Delegation :	Minister
Public Authority Consultation - 56(2)(d) :	Sydney Catchment Management Authority Office of Environment and Heritage Integral Energy Transport for NSW Office of Environment and Heritage - NSW National Parks and Wildlife Service Transport for NSW - Roads and Maritime Services Sydney Water Telstra Other		

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Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

Other - provide details below

If Other, provide reasons :

Should Consult with the Sydney Catchment Authority.

The Council has suggested further further studies are required as follows:

- **Updated Stormwater Management Strategy;**
- **Phase 2 Environmental Site Assessment**
- **Stage 2 Road Safety Audit - Addressing the ideal design and construct of the proposed access roads.**

These studies can be undertaken during the rezoning process.

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons : **The proposal is for 45 lots which is below the Department's draft policy for 250 lots for considering whether state infrastructure is required.**

Documents

Document File Name	DocumentType Name	Is Public
Penrith Attachment 1 - Location Map.pdf	Map	Yes
Planning Proposal - Rezoning Application - 17-53 Caddens Road.pdf	Proposal	Yes
Proposed Zoning.pdf	Map	Yes
Current Zones - Rezoning Application - 17-53 Caddens Road, Ki.pdf	Map	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions:

- 1.5 Rural Lands
- 2.1 Environment Protection Zones
- 2.3 Heritage Conservation
- 3.1 Residential Zones
- 3.3 Home Occupations
- 3.4 Integrating Land Use and Transport
- 5.2 Sydney Drinking Water Catchments
- 6.2 Reserving Land for Public Purposes
- 6.3 Site Specific Provisions
- 7.1 Implementation of the Metropolitan Plan for Sydney 2036

Additional Information : **The planning proposal should proceed subject to the following conditions:**

1. That the planning proposal, including the missing maps, be amended in the following manner:

- a) include reference to 45 x 650m2 lots with 0.5:1 FSR and height restrictions to limit dwellings to 2 storeys. (the number of storeys is to be provided in metres);
- b) The proposed local provision to prohibit dual occupancies for the site is not supported and therefore the Clause Allocation Map (CA_002) should be deleted; and
- c) a minimum lot size map for dual occupancies should be prepared prior to exhibition.

2. the Director General (or delegate) approves the proposal's inconsistency with section 117 directions: 1.5 Rural Lands and 6.2 Reserving Land for Public Purposes, as matters of minor significance.

3. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:

- (a) the planning proposal must be made publicly available for 14 days; and
- (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and specifications for material that must be made publicly available along with planning proposals as identified in section 4.5 of A Guide to Preparing LEPs (Department of Planning 2009).

4. Consultation is required with the following public authorities under section 56(2)(d) of the Environmental Planning and Assessment Act:

- Sydney Catchment Management Authority
- Transport for NSW
- Office of Environment and Heritage
- Integral Energy
- Transport for NSW - Roads and Maritime Authority
- Sydney Water
- Telstra

5. That a voluntary planning agreement confirming how the proposed public recreation area will be dedicated to Council, be exhibited with the proposal.

6. The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination.

Supporting Reasons :

1. The Planning Proposal should proceed as it represents the resolution of a deferred matter in a logical manner which is similar to and compatible with the surrounding development.
2. It provides a new and improved open space asset for local residents.
3. The planning proposal will facilitate the rezoning and delivery of 45 lots within the next 5 years.

Signature:



Printed Name:

STEPHEN GARDINER

Date:

27/9/12