

SWCPP Ref. No.:	2017SWT001
DA No.:	DA17/0042
PROPOSED DEVELOPMENT:	Development Application for a Concept Plan Establishing Indicative Subdivision Pattern, Density Projections, Infrastructure Layout and Landscape Embellishment Works - Lot 6 DP 593628, Lot 3 DP 1103503,46 - 66 OConnell Street, CADDENS NSW 2747 46 b OConnell Street, CADDENS NSW 2747
APPLICANT:	Caddens Versatile Pty Ltd
REPORT BY:	Belinda Borg, Senior Environmental Planner, Penrith City Council

Assessment Report

Executive Summary

Council is in receipt of a development application for a Concept Plan Establishing Indicative Subdivision Pattern, Density Projections, Infrastructure Layout and Landscape Embellishment Works at No. 46 - 66 O Connell Street Caddens. The applicant attended a pre-lodgement meeting with the Development Advisory Panel on 3 November 2016 and the Urban Design Review Panel on 5 October 2016.

The subject site is partially zoned B2 Local Centre and R3 Medium Density Residential under Penrith Local Environmental Plan 2010. The western portion of the site forms part the Caddens Release Area. This application is to be determined by Sydney West City Planning Panel as the development has an estimated total Capital Investment Value (CIV) of \$210 million.

The development application was advertised in local newspapers, exhibited and notified to adjoining property owners and occupants for thirty (30) days in accordance with the Environmental Planning and Assessment Act & Environmental Planning and Assessment Regulations. The notification period was 17 February to 20 March 2017. Council received three (3) submissions in response.

16 key issues were raised in these submissions and they include:

- Clarification on the description of the development
- Integration with the future Caddens Retail Centre
- Provision of an activated and shared east-west avenue to service the development site and the future Caddens Retail Centre
- Road widths not capable of accommodating buses and the development relying upon the Universities bus stops;
- No swept path analysis provided with the application
- Limited scope of traffic modelling provided with the application
- Provision of minimal open space, public or private within the design layout
- Capacity of the drainage design to cater for major storm events
- Limited details and missing information provided within the Civil Engineering Drawings
- Further contamination assessment should be undertaken on the site including a Phase 2 Intrusive Investigation of the site
- Construction methodology, construction timeframe, staging and overall programme for the development has not been detailed
- Non-compliance with a number of development standards including a breach in the maximum building height

controls of 8.5m

- Location, design and access arrangements to the 5 required substations have not been determined within the application.
- Potential Aboriginal Cultural Heritage matters have not been examined
- Lack of perimeter vegetation to screen the proposed development and roads from the surrounding development
- Site boundary fencing has not been identified.

The submissions raised a number of relevant issues in relation to the future development of the site, however the limitation of the proposal to a Concept Plan only means that a number of these issues can only been addressed through information to be submitted with subsequent Development Applications.

The application was referred to the following external authorities for comments:

- NSW Office of Water
- NSW Rural Fire Service (RFS); and
- Roads and Maritime Service (RMS)

The NSW Office of Water issued their General Terms of Approval on 16 March 2017 subject to conditions. The Rural Fire Service and the Roads and Maritime Service provided no feedback in response to the referral.

Key issues identified for the proposed development include:

DCP Boundary and Dwelling Typology

The development site has been identified as having Chapters R2 Residential and E1 Caddens of Penrith Development Control Plan 2014 applicable to the proposal. The western portion of the development site, currently zoned B2 Local Centre under the Penrith Local Environmental Plan 2014 is guided by Chapter E1 Caddens, while the remainder of the site, zoned R3 Medium Density Residential under Penrith Local Environmental Plan 2014 is guided by Chapter R2 Residential of Penrith Development Control Plan 2014.

The DCP provisions between the two chapters are significantly different as the Caddens DCP (Chapter E1) provides for reduced lot sizes, greater dwelling type mix and an overall diversity of housing choice that is not capable under the R2 Residential Chapter. Given the boundary difference between the DCP chapters divides the site and noting the site immediately adjoins a planned Caddens Retail Centre, it is reasonable to apply the provisions of Chapter E1 - Caddens on merit to the entire site, which will need to be addressed as a variations to the DCP through future Development Applications for works including subdivision and dwelling construction.

Road Widths

The details within the Concept Plan requested variations to the widths of roads, laneway and parking bays to those controls within the Caddens DCP. While the general street pattern of local roads is acceptable in principle, the dimensions of the roads as detailed within the Concept Plan are not supported. Road typologies within the site should be consistent with the requirements of the Caddens DCP (Chapter E1) particularly given the interface of the site and potential connectivity to the future development of the Caddens Retail Centre.

Stormwater Management

Stormwater run-off from the proposed development will be captured within the proposed road layout and will be directed to four (4) bio basin filter areas identified within the On-Site Detention (OSD) Requirements document developed by SMEC. This has been identified as the most suitable method of stormwater drainage for the proposed development on the subject site given the topography of the site.

An assessment under Threatened Species Conservation Act 1995 (TSC Act), Sections 79BA, 79C, 83A -

83D and 91 of the Environmental Planning and Assessment Act 1979 has been undertaken and the application is recommended for approval, subject to recommended conditions of consent.

Site & Surrounds

The subject site comprises the following properties:

- Lot 6 DP 593628
- Lot 3 DP 1103503; and
- Lot 2 DP 1217434.

The subject site is regular in shape and is generally bounded by O'Connell Street to the west with a land area of approximately 12 hectares which currently contains two dwellings and ancillary structures. The site has varying topography and is generally steep falling predominantly towards the south-western corner. However, all four corners drain away in different directions. Vegetation includes scattered trees except for an area in the southern section of the site that contains regrown Cumberland Plain Woodland. Historically the site has been used as an orchard from 1943 to 2008.

Landuses surrounding the development site include the TAFE NSW Campus to the north, UWS Werrington Campus to the east, future commercial centre to the south, being the subject of a separate Development Application under Council's consideration (DA17/0995) and UWS Kingswood Campus to the west. The greater locality includes residential development to the south and west, known as Caddens and Kingswood, respectively.

Lot 2 DP 1217434 is a local private roadway that is relied upon as a part of the Concept Plan.

Proposal

The development application is for a Concept Plan establishing indicative subdivision pattern, density projections, infrastructure layout and landscape embellishment works.

In detail, the concept plan includes the following:

- 20 superlots including 15 residential super lots, two mixed use super lots for future commercial, retail uses or shop top housing and three public domain lots.
- Indicative road layout and access points from O Connell Street
- A maximum future residential yield for the 17 residential lots of 320 dwellings, including 70 secondary dwellings.

The public domain lots include the following:

- Lot 4 Woodland Park (10,082sqm) known as Lot 4. This includes retention of 84.3% of the Cumberland Plain Woodland and revegetation of 9.3%.
- Lot 5 Village Square (1,884sqm); and
- Lot 6 Ridge Park (2,136sqm).

It is noted that this Concept Development Application does not seek approval for any physical works. The application sets up a concept plan framework for a staged development process and approval for construction of development in accordance with the Concept Plan will be subject to subsequent Development Applications.

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy No 55—Remediation of Land
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

• **Section 23G – Sydney Western City Planning Panel (SWCPP)**

The application has been assessed in accordance with Section 23G of the Environmental Planning and Assessment Act and the application will be determined by the Sydney Western City Planning Panel as it has a Capital Investment Value (CIV) greater than \$20 million.

• **Section 5A - Threatened Species assessment**

The site has been identified as containing approximately 0.64ha of Cumberland Plain Woodland (CPW) which is listed as Critically Endangered under the NSW *Threatened Species Conservation Act 1995*. The vegetation does not meet the threshold criteria for listing under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*.

The Concept Development Application included the submission of a Vegetation Management Plan by Travers Bushfire & Ecology, dated January 2017 that will expand the amount of CPW on the site to 0.7 hectares and include the implementation of revegetation and bush regeneration techniques within the site .

The assessment of the Vegetation Management Plan against the Landscape Masterplan (Taylor Brammer, 01/2/2017) raised concerns about the removal or damage of Cumberland Plain Woodland through the provision of paths within the bushland reserve. Therefore the recommendation of this report include

appropriate conditions that the future embellishment of the parks will not damage or removed this critically endangered community.

The subdivision pattern has responded to the threatened species community within the site, with the road layout and retention of the woodland community within a future bushland reserve. The proposal will retain 84.3% (0.64ha) of the Cumberland Plain Woodland (CPW) on site which is considered to be a positive outcome for preserving vegetation within an urban release area.

- **Section 79BA - Bushfire prone land assessment**

The subject site has been identified as being bushfire prone land. The application is accompanied by a Bushfire Protection Assessment prepared by Travers Bushfire and Ecology, (dated 20 January 2017) and Supplementary Alternative Solutions Options regarding access to the Development (dated 8 March 2017). The report provides a review of the subdivision proposal and identifies area within the future subdivision that would be required to meet the minimum bushfire attack level requirements. This include the Cumberland Plain Woodland (CPW) bushland reserve and the existing bushland vegetation on the western side of O'Connell Street.

The Concept Development Application was referred on 3 February 2017 to the NSW Rural Fire Service, however no comments were received in response to the referral. At the time of writing the report the Rural Fire Service is being followed up in relation to comments.

Future Development Applications for the construction works associated with the Concept Plan will also be referred to the Rural Fire Service for consideration and issuing of a Bushfire Safety Authority permit.

- **Section 79C - Evaluation**

The development has been assessed in accordance with the matters for consideration under Section 79C, 83A - 83D of the Environmental Planning and Assessment Act 1979, and having regard to those matters, the following issues have been identified for further consideration:

Staged Development Applications

Clause 83B of the EP&A Act relates to staged development applications and states:

(1) For the purposes of this Act, a staged development application is a development application that sets out concept proposals for the development of a site, and for which detailed proposals for separate parts of the site are to be the subject of subsequent development applications. The application may set out detailed proposals for the first stage of development.

The applicant has requested that this proposal be treated as a Staged Development Application. The Concept Plan forms the 'concept proposal' for the development of the site and does not seek approval for any physical works. The application sets up a staged development process and approval for construction of development in accordance with the Concept Plan will be subject to subsequent Development Applications.

- **Section 91- Integrated development**

Section 91 of the EP&A Act outlines the types of developments deemed to be defined as "Integrated Development". As this development requires concurrence from the NSW Rural Fire Service and Office of Water in accordance with this section of the Act, the following comments are provided:

(a) NSW Rural Fires Services (RFS)

According to Section 91 of the EP&A Act, the proposed subdivision is an integrated development as it requires authorisation under section 100B of the Rural Fires Act 1997 in respect of bush fire safety for the

subdivision of land that could lawfully be used for residential or rural residential purposes, or development of land for special fire protection purposes.

While the Concept Development Application was referred on 3 February 2017 to the NSW Rural Fire Service, no comments were received in response to the referral.

Future Development Applications for the construction works associated with the Concept Plan will also be referred to the Rural Fire Service for consideration and issuing of a Bushfire Safety Authority permit.

(b) Office of Water

A “Controlled Activity” approval under the Water Management Act 2000 is required from the NSW Office of Water, as the proposed subdivision includes works within 40m of a watercourse, being the future riparian corridor. The application was referred to the NSW Office of Water and General Terms of Approval were granted on 16 March 2017.

Section 79C(1)(a)(i) The provisions of any environmental planning instrument

State Environmental Planning Policy (Infrastructure) 2007

In accordance with Clause 104 of State Environmental Planning Policy (Infrastructure) 2007, the proposed Concept Development has been referred to NSW Roads and Maritime Services for review and comment. Schedule 3 of SEPP (Infrastructure) 2007 states that subdivision of land creating 200 or more allotments is considered traffic generating development to be referred to RMS.

The application has been referred to RMS on 27 February 2017 and to date, no comments have been provided in response to the referral.

As the proposal complies with the access arrangements within Council's Development Control Plan and the RMS has raised no objection to the proposal, the provisions of SEPP (Infrastructure) 2007 have been satisfied.

State Environmental Planning Policy No 55—Remediation of Land

In accordance with Clause 7 of State Environmental Planning Policy No. 55 - Remediation of Land, a consent authority must not consent to the carrying out of any development on land unless:

- (a) it has considered whether the land is contaminated, and*
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

A Stage 1 Preliminary Site Investigation prepared by APP (dated January 2017) has been submitted with the Concept Development Application. The Preliminary Site Investigation provides a detailed assessment of the subject site including an inspection of the site, desktop review of previous environmental assessment reports, site history and background information regarding the historical use of the site as an orchard, existing stockpiles of building materials and rubble, oil containers, old drums and potentially an above-ground storage system, which have been identified as potential areas of environmental concern.

The report acknowledges these areas of environmental concern require 'further investigation' with a low to moderate likelihood of contamination being present in association with these. However, the consultant concludes that "further detailed site investigation is not warranted prior to the start of the development works", and recommends a number of plans that could be produced to manage any contaminated material found on site. If any contaminated material is identified, it was put forward that a detailed investigation will then take place.

Council's assessment of the report concluded that a Detailed Site Investigation is required to be carried out by a suitably qualified environmental consultant and the associated report submitted to support the application.

In response to Council's request, the applicant responded with a letter prepared by JBS&G Australia Pty Ltd (dated 27 July 2017, ref 54026-110,004) for Council's review. The letter concludes the following: *"It is recommended that a detailed investigation is undertaken to assess the site (including the Areas of Environmental Concern identified in the PSI by APP (2017)) and it is considered that these works could be undertaken as a DA consent condition."*

Addressing this issue as a DA condition of consent raised concerns with Council's Environmental Health Team, particularly in relation to compliance with Clause 7 of State Environmental Planning Policy No. 55 - Remediation of Land. In addition, it is important to recognise that Clause 11(4) of SREP 20 requires that development consent be obtained for remediation works, which means that all remediation works require development consent as Category 1 works under SEPP 55.

Council is not satisfied that the land subject of the proposed development is suitable in its current state for the development and it is unclear if remediation action is required. However the Development Application is limited to the endorsement of a Concept Plan with no works to be undertaken on the site without the submission and consideration of a separate Development Application. Further investigations, remediation and validation works would need to be proposed and undertaken as a part of subsequent stages of the development in the delivery of development foreshadowed in the Concept Plan. An appropriate condition of consent has been included within the recommendations of this report that requires a detailed site investigation. As such Clause 7 of the SEPP is satisfied as the land can be investigated and made suitable through a separate Development Application before any development works are approved or commenced.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Sydney REP No. 20 integrates planning with catchment management to protect the Hawkesbury-Nepean river system, requiring the impact of future land use to be considered in a regional context. The plan covers water quality and quantity, environmentally sensitive areas, riverine scenic quality, agriculture and urban and rural-residential development. It controls development that has the potential to impact on the river environment. The plan applies to all parts of the catchment in the Sydney region (15 local government areas), except for land covered by *Sydney REP No. 11 - Penrith Lakes Scheme*. The REP is supported by an Action Plan, which includes actions necessary to improve existing conditions.

The proposed development is in accordance with the general planning considerations set out in Clause 5 of the REP and the relevant specific planning policies and related recommended strategies set out in Clause 6.

Stormwater run-off from the proposed development will be captured within the proposed road layout and will be directed to four (4) bio basin filter areas identified within the Water Sensitive Urban Design strategy developed by SMEC. This has been identified as the most suitable method of stormwater drainage for the proposed development on the subject site given the topography of the site.

Council's Development Engineer has reviewed the proposed development with regard to stormwater drainage and is satisfied with this aspect of the proposal.

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Permissibility	Complies
Clause 2.3 Zone objectives	Complies
Clause 2.6 Subdivision - consent requirements	Complies
Clause 4.1 - Minimum subdivision lot size	Complies - See discussion
Clause 6.2 Public utility infrastructure	Complies
Clause 6.3 Development control plan	Complies - See discussion

Clause 4.1 - Minimum subdivision lot size

Clause 4.1 of Penrith Local Environmental Plan 2014 relates to minimum subdivision lot size, with the Lot Size Map identifying the minimum lot size for subdivision being 400sqm for a standard lot with a minimum width of 12m and 450m² for battle-axe lot with a minimum width of 15m.

Clause 4.1(4) of Penrith Local Environmental Plan 2014 also states:

This clause does not apply in relation to the subdivision of individual lots in a strata plan or community title scheme.

The proposed Concept Plan include the creation of 20 super lots with a land size ranging from 1080m² to 9196.2m². The Statement of Environmental Effects incorrectly details that the controls do not apply as the super lots would be Torrens title lots. During the assessment of the Concept Development Application, the applicant clarified that the super lots would be the subject a Community Title Subdivision with elements such as parks and laneways potentially retained as a part of the Community Title assets.

The size of the 20 super lots within the Concept Plan achieve the minimum subdivision lots controls. The future stages of the development will be required to clarify the elements to be retained within the Community Title Subdivision to ensure compliance with the above LEP provisions. Appropriate conditions of consent have been included within the recommendations of this report.

Clause 6.3 Development control plan

The development site has been identified as having Chapters R2 Residential and E1 Caddens of Penrith Development Control Plan 2014 applicable to the site. .

The western portion of the development site, currently zoned B2 Local Centre under the Penrith Local Environmental Plan 2014 is guided by Chapter E1 Caddens, while the remainder of the site, zoned R3 Medium Density Residential under Penrith Local Environmental Plan 2014 is guided by Chapter R2 Residential of Penrith Development Control Plan 2014.

The DCP provision between the two chapters are significantly different as the Caddens DCP (Chapter E1) provides for reduced lot sizes, greater dwelling type mix and an overall diversity of housing choice that is not capable under the R2 Residential Chapter. Given the boundary difference between the DCP chapters divides the site and noting the site immediately adjoins a planned Caddens Retail Centre, it is reasonable to apply the provisions of Chapter E1 - Caddens on merit to the entire site. which will need to be addressed as a variations to the DCP through future Development Applications for works including subdivision and dwelling construction.

The limitation of the development to a Concept Plan will result in further documentation such as staging plans being provided as a part of future applications to ensure that the implementation of the Concept Plan in a logical and cost- effective manner.

Section 79C(1)(a)(iii) The provisions of any development control plan

Development Control Plan 2014

Provision	Compliance
DCP Principles	Complies
C1 Site Planning and Design Principles	Complies
C2 Vegetation Management	Complies
C3 Water Management	Complies - see Appendix - Development Control Plan Compliance
C4 Land Management	Complies
C5 Waste Management	Complies - see Appendix - Development Control Plan Compliance
C6 Landscape Design	Complies
C7 Culture and Heritage	Complies
C8 Public Domain	Complies
C9 Advertising and Signage	N/A
C10 Transport, Access and Parking	Does not comply - see Appendix - Development Control Plan Compliance
C11 Subdivision	Does not comply - see Appendix - Development Control Plan Compliance
C12 Noise and Vibration	Complies
C13 Infrastructure and Services	Complies
D2.1 Single Dwellings	N/A
D2.2. Dual Occupancies	N/A
D2.3 Secondary Dwellings	N/A
D2.4 Multi Dwelling Housing	Does not comply - see Appendix - Development Control Plan Compliance
D2.5 Residential Flat Buildings	N/A
D2.6 Non Residential Developments	N/A
E1 Caddens controls	Does not comply - see Appendix - Development Control Plan Compliance

Section 79C(1)(a)(iv) The provisions of the regulations

The proposal does not contravene the Environmental Planning and Assessment Regulations.

Section 79C(1)(b) The likely impacts of the development

The proposed development is limited to a concept plan only with no construction or subdivision works proposed. Future Development Applications will be submitted and a detailed assessment of the likely impacts of the development will be undertaken at such time.

Section 79C(1)(c)The suitability of the site for the development

The site is suitable for the Concept Plan in that the road pattern, super lots and maximum density of the development is considered compatible with surrounding land uses and future Caddens Retail Centre. The proposal has been designed in a manner consistent with the changing character of the locality.

Section 79C(1)(d) Any Submissions

Community Consultation

In accordance with the Act and Regulations, consideration has been given to any necessary referrals and any submissions made.

Community Consultation

In accordance with Appendix F4 of Penrith Development Control Plan 2014, the proposed development was notified to nearby and adjoining properties and advertised between 17 February and 20 March 2017 . Council has received three (3) submissions in response and the concerns raised are addressed below.

Issue	Response
Clarification on the description of the development	Concerns were raised in relation to discrepancies within the description of the development within various documents provided to support the Concept Plan. Council has considered the description of the development, as outlined within the Section 1.2 of the Statement of Environmental Effects, as being the most accurate description and has been referred to within this report.
Integration with the future Caddens Retail Centre	At the time of making the submission, an understanding of the future Caddens Retail Centre was limited as the details of the plans were in the process of being prepared. Subsequently Council has received a Development Application for the future Caddens Retail Centre which has been reviewed as a part of the assessment of the Concept Plan.

Provision of an activated and shared east-west avenue to service the development site and the future Caddens Retail Centre	<p>The Penrith Development Control Plan 2014 envisaged the provision of an east-west avenue between the development site and the adjoining Caddens Retail Centre. However the assessment of the Concept Plan revealed that this was unachievable on the site due to level differences and the location of the Cumberland Plain Woodland.</p> <p>It is also noted that the east-west avenue is not proposed as a part of the Caddens Retail Centre, which is currently under assessment.</p> <p>The layout of the Concept Plan provides a road network that can punch through to the adjoining land.</p>
Road widths not capable of accommodating buses and the development relying upon the Universities bus stops	<p>Penrith Development Control Plan 2014 - Chapter E1 Caddens does not detail that the future bus route will be directed through the development site.</p> <p>Bus stops within the existing road network including O Connell Street will service the bus route to provide an appropriate service to the community.</p>
No swept path analysis provided with the application	<p>Additional information was submitted to Council which included swept path details for the Concept Plan/</p> <p>A conditions of consent has been included within the recommendations to ensure the road dimensions comply with the road typologies identified within Penrith Development Control Plan 2014 - Chapter E1 Caddens.</p> <p>Details swept path analysis will be required for the future Development Applications on the site.</p>
Limited scope of traffic modelling provided with the application	<p>The submissions raised concerns in relation to the traffic assessment report failing to adequately address the impacts on the development, including the commercial component of the development on the existing road network.</p> <p>Endorsement of Transport Impact Assessment has not been given as a part of the Concept Plan and further analysis will be required to be undertaken with future Development Applications.</p>
Provision of minimal open space, public or private within the design layout	
Capacity of the drainage design to cater for major storm events	The proposed development is limited to a concept plan and further examination of this issue with the preparation of future Development Applications for the site.

Limited details and missing information provided within the Civil Engineering Drawings	The proposed development is limited to a concept plan and further examination of this issue with the preparation of future Development Applications for the site.
Further contamination assessment should be undertaken on the site including a Phase 2 Intrusive Investigation of the site	The proposed development is limited to a concept plan. The submission of additional Contamination assessments is recommended as a condition of consent for form part of future Development Applications for the site.
Construction methodology, construction timeframe, staging and overall programme for the development has not been detailed	The proposed development is limited to a concept plan and further examination of this issue with the preparation of future Development Applications for the site.
Non-compliance with a number of development standards including a breach in the maximum building height controls of 8.5m	The determination of the Development Application has not included the endorsement of the housing typology proposed as a part of the Concept Plan. A further assessment of the appropriateness of the housing typology against the relevant controls will be required with a future Development Application.
Location, design and access arrangements to the 5 required substations have not been determined within the application.	It is envisaged that the location of substations within the substation will be details as part of
Potential Aboriginal Cultural Heritage matters have not been examined	The proposed development is limited to a concept plan and further examination of this issue with the preparation of future Development Applications for the site.
Lack of perimeter vegetation to screen the proposed development and roads from the surrounding development	The proposed development is limited to a concept plan and further examination of this issue with the preparation of future Development Applications for the site.
Site boundary fencing has not been identified	The proposed development is limited to a concept plan and further examination of this issue with the preparation of future Development Applications for the site.

The submissions have raised a number of valid concerns relating to the future development of the site. The limitation of the proposal to a Concept Plan only means that a number of these concerns can only be addressed through the details that would form part of future Development Applications that includes subdivision and dwelling construction.

Council advises prior to the submission of further Development Application, extensive engagement with the adjoining landowners should be undertaken by the applicant to ensure that the concerns raised within these submissions are adequately addressed through the information provided to support future Development Applications.

Referrals

The application was referred to the following stakeholders and their comments have formed part of the assessment:

Referral Body	Comments Received
Building Surveyor	No objections
Development Engineer	No objections
Landscape Architect	No objections
Environmental - Environmental management	Not supported
Environmental - Waterways	Not supported
Environmental - Biodiversity	No objections - subject to conditions
Waste Services	No objections - subject to conditions
Traffic Engineer	No objection subject to conditions
Tree Management Officer	No objections - subject to conditions

Section 79C(1)(e)The public interest

The proposed development has addressed the requirements of the relevant planning instruments and development controls including the objectives of the zone. The application has demonstrated that the site is suitable for the proposed development. The proposal promotes the residential subdivision of land to accommodate the growth predicted in the NSW Governments metropolitan strategy, *A plan for growing Sydney*. The proposed development will include community facilities through the provision of three parks for the use and enjoyment of future residents. In addressing the above, Council is satisfied that the proposal is in the interest of the public.

Section 94 - Developer Contributions Plans

The Werrington Enterprise Living and Learning (WELL) Precinct Section 94 Development Contributions Plan applies to the site. The WELL Precinct Section 94 Plan imposes contributions for the following: ☐

- Open space and recreation facilities contribution ☐
- Community facilities contribution ☐
- Transport management facilities contribution
- Water cycle management facilities contribution.

As the Development Application is limited to the endorsement of a Concept Plan, the proposal is not subject to the levying of Section 94 contributions. Applicable Section 94 contributions will be levied upon future stages which include the construction of the subdivision and dwelling typologies.

It is noted that the Statement of Environmental Effects details a Voluntary Planning Agreement may be entered into rather than the payment of Section 94 contributions, however such an offer has not been received or considered by Council at the time of considering the Concept Plan.

Conclusion

The above assessment has demonstrated that the proposal has met the relevant provisions of the following legislation:

- Environmental Planning and Assessment Act 1979,
- Threatened Rural Fires Act 1997
- Water Management Act 2000
- Sydney Regional Environmental Plan No. 20 - Hawkesbury-Nepean River
- State Environmental Planning Policy No. 55 - Remediation of Land
- State Environmental Planning Policy (Infrastructure)
- Penrith Local Environmental Plan 2010; and
- Penrith DCP 2014

and subject to the recommended conditions of this report.

The information submitted with the Concept Development Application, has demonstrated that the site is suitable for the development proposed and provides an outcome which facilitates additional future housing.

In view of the above assessment, it is recommended that the Sydney Western City Planning Panel grant consent to this application under Section 80(1)(a) of the Environmental Planning and Assessment Act 1979 subject to the recommended conditions of consent accompanying this report.

Recommendation

1. That DA17/0042 for the Concept Plan Establishing Indicative Subdivision Pattern, Density Projections, Infrastructure Layout and Landscape Embellishment Works at No. 46 - 66 O Connell Street Caddens be approved subject to the attached conditions.

CONDITIONS

General

- 1 The Concept Development is to be implemented substantially in accordance with the stamped approved plans issued by Penrith City Council and supporting documents outlined in the table below:

Drawing Title	Reference	Issue	Author	Date
Statement of Environmental Effects	SA6416	-	Urbis	24 January 2017
Executive Summary	-	-	Hill Thalys	-
The Site in Sydney	A01	B	Hill Thalys	6 March 2017
The Site in Context	A02	B	Hill Thalys	6 March 2017
Existing Site Attributes	A03	B	Hill Thalys	6 March 2017
Project Principles	A04	A	Hill Thalys	-
Illustrative Master Plan	A05	B	Hill Thalys	6 March 2017
Mature Tree Plantings	A09	B	Hill Thalys	6 March 2017
Potential Subdivision	C01	B	Hill Thalys	6 March 2017
Typical Lots	C02	B	Hill Thalys	6 March 2017
Bushfire Protection Assessment and Supplementary Alternative Solutions Options regarding Access to the Development	A16195B	-	Travers Bushfire & Ecology	20 January 2017 & 8 March 2017
Service Infrastructure Report	78090.01.RE01-Services	3	SMEC	20 January 2017
Preliminary Site Investigation	11168	-	APP Corporation	January 2017
Supplementary Letter JBS&G Australia Pty Ltd	Ref 54026-110,004	-	JBS&G Australia Pty Ltd	27 July 2017
Drainage OSD Requirements	78090	-	SMEC	7 July 2017
Flora and Fauna Assessment	A16195F	-	Travers Bushfire & Ecology	20/01/17
Vegetation Management Plan	A16195V	-	Travers Bushfire & Ecology	January 2017
Caddens Development Waste Management Plan	-	-	GHD	September 2017

- 2 General Terms of Approval have been issued by the Department of Primary Industries - Water under the Water Management Act 2000 dated 16 March 2017 and are considered to form part of the Concept Plan. Future development of the site under the Concept Plan will required additional referrals to the Department of Primary Industries - Water under the Water Management Act 2000.
- 3 Development Applications for each stage are to detail the terms of the Community Title Subdivision, including assets to be retained within the Community Title Subdivision and assets to be dedicated to Penrith City Council.
- 4 In the submission of future Development Applications for the site, the dimensions of the road network are to be consistent with the Road Typologies details within Penrith Development Control Plan 2014 - Chapter E1 Caddens.
- 5 In the preparation of future Development Applications, detailed plans for the location of the path through the reserve are to be provided to Council for approval. The location of the path is to avoid impacting on all remnant vegetation, and where possible avoid all root zones for trees that are to be retained. The path should be located within the proposed revegetation area rather than the existing Cumberland Plain Woodland vegetation.

Environmental Matters

- 6 In the preparation of separate Development Applications in the delivery of the Concept Plan, a Detailed Site Investigation is required to be carried out by a suitably qualified environmental consultant and the associated report submitted to support the application/s. This investigation is to be carried out with consideration of the NEPM (2013 amendment) and other relevant EPA guidelines.
- 7 The development is to incorporate on-site waste infrastructure for each individual dwelling in accordance with section 3.3 of the 'Residential Subdivisions Waste Management Guidelines' document.
- 8 Proposed Innovative waste collection solutions are to be implemented in accordance with section 3.4 of the 'Residential Subdivisions Waste Management Guidelines' document.

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part C - City-wide Controls

C3 Water Management

The Concept Plan included a Preliminary Engineering Design Report that included the provision of on-site detention within the road network that would be dedicated to Council. This approach was not supported by Council and subsequently an On Site Detention Requirements document was developed by SMEC and presented for Council's consideration.

Stormwater run-off from the proposed development will be captured within the proposed road layout and will be directed to four (4) bio basin filter areas identified within the OSD Detention Requirements developed by SMEC. This has been identified as the most suitable method of stormwater drainage for the proposed development on the subject site given the topography of the site.

Council's Development Engineering has reviewed the application and raise no objections to the proposed stormwater management strategy. Council's Waterways Team require the completion of an overarching WSUD Strategy and MUSIC Modelling in accordance with Council's adopted policies to form part of any future Development Applications for the site.

C5 Waste Management

The projected density of the development raised concerns in relation to the collection of waste within the road network and required an innovative waste solution to protect the amenity of the future residents within the locality.

In consideration of the Concept Plan, the waste management strategy was revised through the submission of the Caddens Development Waste Management Plan (prepared by GHD dated September 2017) which included the provision of underground waste collection stations.

Council's Waste Officer has reviewed the proposal and is satisfied that alternative waste collection solution is suitable for the proposed Concept Development Application.

C10 Transport Access and Parking

The proposed concept development included a suite of plans detailing the location of future roads, pedestrian pathways and laneways to service the 20 super lots and future residential development.

The details within the Concept Plan requested variations to the widths of roads, laneway and parking bays to those controls within the Caddens DCP. Council's Traffic Engineers have reviewed the Traffic Impact Assessment by "The Transport Planning Partnership Pty Ltd" Version 1 Version Date 01/02/2017 and the Post-Technical Meeting Updated Presentation and Design Plans provided for Council's consideration.

While the general street pattern of local roads is acceptable in principle, the dimensions of the roads as detailed within the Concept Plan are not supported. Road typologies within the site should be consistent with the requirements of the Caddens DCP (Chapter E1) particularly given the interface of the site and potential connectivity to the future development of the Caddens Retail Centre.

Appropriate conditions have been included within the recommendations of this report requiring road widths of the future Development Applications to be consistent with the Road typologies

identified within Penrith Development Control Plan 2014 – Chapter E1 Caddens.

C11 Subdivision

The DCP provision between the two chapters are significantly different as the Caddens DCP (Chapter E1) provides for reduced lot sizes greater dwelling type mix and an overall diversity of housing choice that is not capable under the R2 Residential Chapter. Given the boundary difference between the DCP chapters divides the site and noting the site immediately adjoins a plans and proposed Village Centre, it is reasonable to apply the provisions of Chapter E1 - Caddens on merit to the entire site which will need to be addressed as a variations to the DCP through future Development Applications for works including subdivision and dwelling construction.

D2 Residential Development

The Development site divided into two separate zones being R3 Medium Density Residential and B2 Local Centre under Penrith Local Environmental Plan 2010. Chapter D2 Residential of Penrith Development Control Plan 2014 applies to the eastern portion of the site.

The Concept Plan included the submission of a detailed set of plans prepared by Hill Thalys that included but was not limited to Context Analysis, Public Domain, Road Layout and Built Form. The Statement of Environmental Effects outlines “the Concept Plan takes a new approach to housing which differs from the traditional detached estate model often found in urban release areas and aims to provide high quality housing design, functionality, diversity and affordability for young families and first home buyers”.

The applicant was advised that this approach does not dissolve the existing planning controls that apply to the site, in particular the R3 Medium Density Residential and Penrith Development Control Plan 2014 – D2 Residential Development.

The proposed Concept Plan is not consistent with Council's adopted policy platform or current planning controls. The dwelling typology designs do not reflect the controls within Penrith Development Control Plan 2014 – D2 Residential which includes but is not limited to:

- Landscaped Area
- Building Height
- Building Envelope & Setbacks
- Solar access
- Driveways and Parking Areas
- Waste Management.

The applicant was requested to provided additional justification in the form of an analysis of the development against Chapter E1 Caddens of Penrith Development Control Plan 2014 to determine the appropriateness of the development when viewed against the predominate controls within the locality. The provisions of Chapter D2 Residential of Penrith Development Control Plan 2014 are considered to be inconsistent with the future character of the area and an analysis of the controls that apply to the surrounding land was considered a responsive manner to approach the inconsistencies in controls for the locality.

In response to Council's request, Urbis provided the following information:

Section E1 Caddens DCP

Relevance

- *Applies to the B2-zoned land*
- *However also an appropriate consideration for the R3-zoned land*
- *The CWG proposal consistent with objectives and yield/density provision*

General objectives

- *Diverse range of housing forms and densities to meet the needs of diverse age groups, family types and*
- *income levels.*
- *High standard of residential amenity and design quality*
- *Higher density forms of housing will be located in close proximity to the precinct centre.*

Dwelling yield and diversity

- *To promote a range of residential densities that respond to topography*
- *To deliver 15 dwellings per hectare (minimum) – we provide 32.5 per hectare*
- *To provide opportunities for affordable housing*
- *For creation of a super lot, minimum dwelling yield is to be specified*
- *Minimum dwelling yield of 1,247 set for the precinct (we provide 390)*
- *Development must provide a variety of lot sizes, dwelling types and dwelling sizes to create opportunities for a wide range of housing needs to be met.*

While it is noted that the Statement of Environmental Effects outlines “this yield is a maximum for the site and future yield will be determined through further design development for the site” the applicant has confirmed that there is an expectation that the endorsement of the Concept Plan would deliver an expected yield within the seventeen (17) super lots.

The Concept Plan outlines a range of indicative housing typologies which have been assessed to form an opinion on the projected residential density of the development. It is noted that the plans reference CWG Developments reserve the right to alter the design and yield based on future market feedback and community requirements and the like.

Therefore Council's endorsement of the Concept Plan is limited to the creation of the 20 super lots, indicative road layout and maximum development yield. While a number of documents have been provided for consideration as a part of the Concept Development Application, endorsement of all documents should cannot be presumed. A list of the endorse documents are detailed within Conditions 1 of this report.

Future Development Applications will be required to provide an extensive justification in relation to the appropriateness of the proposed housing typology and compliance with the relevant controls that apply to the development site.

E1 Caddens

The aims of Chapter E1 of Penrith Development Control Plan 2014 are to support the objectives of Penrith Local Environmental Plan 2010 and facilitate the sustainable development of residential, mixed use, retail, open space and conservation areas of the Caddens Release Areas. It is noted that Chapter E1 of Penrith Development Control Plan 2014 applies to the western portion of the site zoned B2 Local Centre under Penrith Local Environmental Plan 2014.

The following assessment provides a comprehensive overview of the proposed development and demonstrates how the objectives of Chapter E1 are achieved.

1.2 Structure Plan	<p>The proposed development is generally in accordance with the structure plan outlined in Figure E1.2 of Chapter E1 in the DCP. The indicative road layout has been altered to from the structure plan to improvement the movement of vehicles through the future subdivision.</p>
1.2.2 Character Area Design Principles	<p>Design principles for the precinct include the Caddens Road Interface, Hilltops and the Precinct Centre. The development is located within the Precinct Centre which will be characterised by a mix of retail, community, commercial and residential uses.</p> <p>The Concept Plan establishes two super lots that have been orientated to O Connell Street. The design and layout future development within these sites has not been established as a part of the Concept Plan and will form part of a separate Development Application.</p>
1.2.3 Dwelling Yield and Diversity	<p>The subject site is located within Precinct D which is required to provide a minimum dwelling yield of 134 residential lots. The proposed development proposes two super lots with the density of residential development within these lots being the subject of separate Development Applications.</p>
1.3 Public Domain	<p>The proposal includes the provision of a local road linkages to O Connell Street which is consistent with Figure 1.6 Street Hierachy within the DCP. A variation to the Collector Road network is proposed, with Figure 1.6 Street Hierachy detailing the inclusion of additional collector roads and the closure of a portion of O Connell Street. The variation will result in the retention of the existing road alignment of O Connell Street, rather than the provision of a new collector road along the southern boundary of the site and into the future Caddens Retail Centre. The development of the Caddens Retail Centre, being the subject of a separate Development Application does not rely upon the construction of the new Collector Road, rather utilises the existing layout of O Connell Street.</p> <p>In addition, the topography and significant vegetation within the site result in the delivery of a road network consistent with Figure 1.6 Street Hierachy without the loss of significant vegetation within the development site and the southern adjoining property.</p> <p>Therefore the variation to the Figure 1.6 Street Hierachy is supported.</p>

1.4 Residential Development	<p>The Concept Plan establishes two super lots that have been orientated to O Connell Street.</p> <p>The DCP envisages a development height of 4 storeys within the two lots, however the design and layout future development within these sites has not been established as a part of the Concept Plan and will form part of a separate Development Application.</p>
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