



RFS



Penrith City Council
PO Box 60
PENRITH NSW 2751

Your reference: (CNR-68778) DA24/0294
Our reference: DA20240510001913-S38-2

ATTENTION: Concurrence Referral

Date: Wednesday 18 December 2024

Dear Sir/Madam,

Integrated Development Application

s100B - Subdivision - Subdivision

221-227 & 289-317 Luddenham Road, Orchard Hills NSW, 1//DP1293805, 2//DP1293805

I refer to your correspondence dated 12/12/2024 seeking general terms of approval for the above Integrated Development Application.

The New South Wales Rural Fire Service (NSW RFS) has reviewed the submitted amended information. General Terms of Approval are now re-issued, under Division 4.8 of the *Environmental Planning and Assessment Act 1979*, and a Bush Fire Safety Authority, under section 100B of the *Rural Fires Act 1997*, are now issued subject to the following conditions.

Asset Protection Zones

The intent of measure is to provide sufficient space and maintain reduced fuel loads to ensure radiant heat levels at the buildings are below critical limits and prevent direct flame contact.

1. At the commencement of building works or the issue of a subdivision certificate, whichever comes first, all industrial Lots 1 - 5 (excluding the bioretention and storage basin) must be maintained as an inner protection area in accordance with the requirements of Appendix 4 of *Planning for Bush Fire Protection 2019*.
2. Landscaping within the required inner protection area must comply with Appendix 4 of *Planning for Bush Fire Protection 2019*. In this regard, the following principles are to be incorporated:
 - Planting is limited in the immediate vicinity of the building;
 - Planting does not provide a continuous canopy to the building (i.e. trees or shrubs are isolated or located in small clusters);
 - Landscape species are chosen to ensure tree canopy cover is less than 15% (IPA) at maturity and trees do no touch or overhang buildings;
 - Avoid species with rough fibrous bark, or which retain/shed bark in long strips or retain dead material in their canopies;
 - Use smooth bark species of trees species which generally do not carry a fire up the bark into the crown;
 - Avoid planting of deciduous species that may increase fuel at surface/ ground level (i.e. leaf litter);
 - Avoid climbing species to walls and pergolas;

1

Postal address

NSW Rural Fire Service
Locked Bag 17
GRANVILLE NSW 2142

Street address

NSW Rural Fire Service
4 Murray Rose Ave
SYDNEY OLYMPIC PARK NSW 2127

T (02) 8741 5555
F (02) 8741 5550
www.rfs.nsw.gov.au



RFS



- Locate combustible materials such as woodchips/mulch, flammable fuel stores away from the building;
- Locate combustible structures such as garden sheds, pergolas and materials such as timber garden furniture away from the building; and
- Low flammability vegetation species are used.

Water and Utility Services

The intent of measure is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building.

3. The provision of water, electricity and gas must comply with the following in accordance with Table 5.3c of *Planning for Bush Fire Protection 2019*:

- reticulated water is to be provided to the development where available;
- fire hydrant, spacing, design and sizing complies with the relevant clauses of Australian Standard AS 2419.1:2021;
- hydrants are not located within any road carriageway;
- reticulated water supply to urban subdivisions uses a ring main system for areas with perimeter roads;
- fire hydrant flows and pressures comply with the relevant clauses of AS 2419.1:2021;
- all above-ground water service pipes are metal, including and up to any taps;
- where practicable, electrical transmission lines are underground;
- where overhead, electrical transmission lines are proposed as follows:
 - lines are installed with short pole spacing (30m), unless crossing gullies, gorges or riparian areas; and
 - no part of a tree is closer to a power line than the distance set out in accordance with the specifications in ISSC3 Guideline for Managing Vegetation Near Power Lines.
- reticulated or bottled gas is installed and maintained in accordance with AS/NZS 1596:2014 - The storage and handling of LP Gas, and the requirements of relevant authorities, and metal piping is used;
- all fixed gas cylinders are kept clear of all flammable materials to a distance of 10m and shielded on the hazard side;
- connections to and from gas cylinders are metal; polymer-sheathed flexible gas supply lines are not used; and
- above-ground gas service pipes are metal, including and up to any outlets.

General Advice - Consent Authority to Note

Future development applications lodged on lots created within this subdivision (including any future residential dwelling within the RU2 zoned portion of land) may be subject to further assessment under the Environmental Planning & Assessment Act 1979.

The bushfire assessment and recommendations provided to date in the Bushfire Assessment report produced by Peterson Bushfire, dated 7 May 2024, Reference 20074 are generally in accordance the requirements of Planning for Bush Fire Protection 2019. It is recommended that future applications provide an appropriate defensible space to prevent the likely fire spread to warehouses commensurate with the bush fire risk.

This letter is in response to an assessment of the application based on the submitted further information and supersedes our previous general terms of approval dated 04/10/2024.

For any queries regarding this correspondence, please contact Nicole Van Dorst on 1300 NSW RFS.

Yours sincerely,



RFS



Kalpana Varghese
Manager Planning & Environment Services
Built & Natural Environment



RFS



BUSH FIRE SAFETY AUTHORITY

Subdivision – Subdivision

221-227 & 289-317 Luddenham Road, Orchard Hills NSW, 1//DP1293805, 2//DP1293805

RFS Reference: DA20240510001913-S38-2

Your Reference: (CNR-68778) DA24/0294

This Bush Fire Safety Authority is issued on behalf of the Commissioner of the NSW Rural Fire Service under s100b of the Rural Fires Act (1997) subject to the attached General Terms of Approval.

This authority supersedes the previous Bush Fire Safety Authority DA20240510001913-S38-1 issued on 04/10/2024 and confirms that, subject to the attached reissued General Terms of Approval being met, the proposed development will meet the NSW Rural Fire Service requirements for Bush Fire Safety under *s100b of the Rural Fires Act 1997*.

Kalpana Varghese

**Manager Planning & Environment Services
Built & Natural Environment**

Wednesday 18 December 2024



Department of Planning and Environment



Contact: Department of Planning and Environment-Water

Phone: 1300081047

Email: waterlicensing.servicedesk@dpie.nsw.gov.au

Our ref: IDAS-2024-10698

Your ref: DA24/0294

4 November 2024

The General Manager
PENRITH CITY COUNCIL
601 High Street Penrith NSW 2750

Attention: Concurrence Referral

Uploaded to the ePlanning Portal

Dear Sir/Madam

Re: IDAS-2024-10698 - Integrated Development Referral – General Terms of Approval
Dev Ref: DA24/0294
Description: Site preparation works, construction of flood storage basins and the main internal estate road.
Location: Lot 1, DP1293805, 221-227 LUDDENHAM ROAD ORCHARD HILLS 2748
Lot 2, DP1293805, 289-317 LUDDENHAM ROAD ORCHARD HILLS 2748

I refer to your recent referral regarding an integrated Development Application (DA) proposed for the above location. Attached, please find Department of Planning and Environment-Water's General Terms of Approval (GTA) for part of the proposed development requiring a Controlled Activity approval under the *Water Management Act 2000* (WM Act), as detailed in the subject DA.

Please note Council's statutory obligations under section 4.46 of the *Environmental Planning and Assessment Act 1979* (EPA Act) which requires consent, granted by a consent authority, to be consistent with the general terms of any approval proposed to be granted by the approval body.

If the proposed development is approved by Council, the department requests these GTA be included (in their entirety) in Council's development consent. Please also note the department requests notification:

- if any plans or documents are amended and these amendments significantly change the proposed development or result in additional works or activities (i) in the bed of any river, lake or estuary; (ii) on the banks of any river lake or estuary, (iii) on land within 40 metres of the highest bank of a river lake or estuary; or (iv) any excavation which interferes with an aquifer.

The Department of Planning and Environment-Water will ascertain from the notification if the amended plans require review of or variation/s to the GTA. This requirement applies even if the amendment is part of Council's proposed consent conditions and do not appear in the original documentation.

- if Council receives an application under s4.46 of the EPA Act to modify the development consent and the modifications change the proposed work or activities described in the original DA.
- of any legal challenge to the consent.

As the proposed work or activity cannot commence before the applicant applies for and obtains an approval, the department recommends the following condition be included in the development consent:

The attached GTA issued by the Department of Planning and Environment-Water do not constitute an approval under the *Water Management Act 2000*. The development consent holder must apply to the department for a Controlled Activity approval after consent has been issued by Council and before the commencement of any work or activity.

A completed application must be submitted to the department together with any required plans, documents, application fee and proof of Council's development consent. Finalisation of an approval can take up to eight (8) weeks from the date the application and all required supporting documentation is received.

Applications for controlled activity approval should be made to the department, by lodgement of a Controlled Activity Approval – New approval application on the NSW Planning Portal at:
<https://www.planningportal.nsw.gov.au/>

The Department of Planning and Environment-Water requests that Council provide a copy of this letter to the development consent holder.

The Department of Planning and Environment-Water also requests a copy of the determination for this development application be provided by Council as required under section 4.47(6) the EPA Act.

Yours Sincerely

A handwritten signature in black ink, appearing to read 'PP', with a stylized flourish extending from the bottom right.

For
Patrick Pahlow
Team Leader
Licensing and Approvals
Department of Planning and Environment-Water



General Terms of Approval

for proposed development requiring approval under s89, 90 or 91 of the Water Management Act 2000

Reference Number: IDAS-2024-10698
Issue date of GTA: 4 November 2024
Type of Approval: Controlled Activity
Location of work/activity: Lot 1, DP1293805, 221-227 LUDDENHAM ROAD ORCHARD HILLS 2748
Lot 2, DP1293805, 289-317 LUDDENHAM ROAD ORCHARD HILLS 2748
Waterfront Land:
DA Number: DA24/0294
LGA: PENRITH

The GTA issued by Department of Planning and Environment-Water do not constitute an approval under the *Water Management Act 2000*. The development consent holder must apply to the Department of Planning and Environment-Water for the relevant approval **after development consent** has been issued by Council **and before** the commencement of any work or activity.

Condition Number	Details
------------------	---------

TC-G001	Before commencing any proposed controlled activity on waterfront land, an application must be submitted to Department of Planning and Environment-Water, and obtained, for a controlled activity approval under the Water Management Act 2000.
---------	--

TC-G004	A. This General Terms of Approval (GTA) only applies to the proposed controlled activity described in the plans and associated documents found in Schedule 1, relating to Development Application DA24/0294 provided by Council to Department of Planning and Environment-Water.
---------	--

B. Any amendments or modifications to the proposed controlled activity may render the GTA invalid. If the proposed controlled activity is amended or modified, Department of Planning and Environment-Water, must be notified in writing to determine if any variations to the GTA will be required.

TC-G005	A. The application for a controlled activity approval must include the following plan(s):
---------	---

- Site plans
- Erosion and sediment control plans
- Construction detailed drainage plans
- Construction stormwater drainage outlet plan
- Vegetation management plan
- Riparian offset plan
- Construction detailed basin design plans

B. The plan(s) must be prepared in accordance with Department of Planning and Environment-Water's guidelines located on the website

<https://www.dpie.nsw.gov.au/water/licensing-and-trade/approvals/controlled-activity-approvals/what/guidelines>



General Terms of Approval

for proposed development requiring approval under s89, 90 or 91 of the Water Management Act 2000

SCHEDULE 1

The plans and associated documentation listed in this schedule are referred to in general terms of approval (GTA) issued by Department of Planning and Environment-Water for integrated development associated with IDAS-2024-10698 as provided by Council:

- Bulk Earthworks - RFI_AI-1378959
- Bulk Earthworks SEE_221-227 and 289-317 LUDDENHAM ROAD ORCHARD HILLS_AI-1378959
- Civil Documentation_AI-1378959
- Landscape Plans_AI-1378959
- Riparian VMP_AI-1378959

Penrith City Council
Via the NSW Planning Portal

Re: DA24/0294, CNR-68778 – Alspec Industrial Park site preparation works, construction of flood storage basins and the main internal estate road – 221-227 & 289-317 Luddenham Road, Orchard Hills NSW 2748 – Lots 1 & 2 DP1293805

Dear Penrith City Council,

Thank you for your referral of this integrated development application dated 12 August 2024 to DPIRD Fisheries, a division of NSW Department of Primary Industries & Regional Development.

DPIRD Fisheries is responsible for ensuring that fish stocks are conserved and that there is no net loss of key fish habitats upon which they depend. To achieve this, DPIRD Fisheries ensures that developments comply with the requirements of the *Fisheries Management Act* (FM Act) (namely the aquatic habitat protection and threatened species conservation provisions in Parts 7 and 7A of the Act, respectively), and the associated *Policy and Guidelines for Fish Habitat Conservation and Management (2013)*. DPIRD Fisheries is also responsible for ensuring the sustainable management of commercial, recreational and Aboriginal cultural fishing, aquaculture, marine parks and aquatic reserves in NSW.

Key fish habitats include those habitats that are crucial to the survival of native fish stocks. The degradation of aquatic habitat is a major threat to the abundance and diversity of native fishes in NSW. As such, a primary objective for conserving fishes is to conserve the habitats that fish are dependent upon for survival.

It is understood that the subject proposal involves a residential subdivision and development, which will include the construction of flood storage basins immediately adjacent to the fourth order Strahler stream at the northwest of the site which is mapped key fish habitat (KFH). Best practice development of this site should ensure the maintenance and improvement of key fish habitat by:

- protection and improvement of riparian habitat values, it is recommended that the Vegetation Management Plan (Ecoplanning, 5 April 2024) be amended to outline how the restoration or rehabilitation will be carried out within the riparian corridors adjacent to KFH.
- protection of aquatic habitat, erosion and sedimentation impacts during the land forming and development of the area presents a significant risk to aquatic habitat values. It is important that these works are staged to minimise the area of exposed earth in forming these areas.
- protection or improvement of water quality through water sensitive urban design, adequate stormwater treatment and best practice erosion and sediment control measures during construction.

DPIRD Fisheries has reviewed the proposal in light of those provisions and has no objections, subject to the proponent meeting the General Terms of Approval (GTAs) that follow. As per s.4.47(3) of the *Environmental Planning and Assessment Act 1979*, any consent issued by Council must be consistent with these GTAs.

1. A permit under the *Fisheries Management Act 1994* for dredge and reclamation works or a Controlled Activity Approval (CAA) under the *Water Management Act 2000* is to be obtained prior to the commencement of any dredging and reclamation works.
2. DPIRD Fisheries treats artificial habitats that are linked to natural habitats upstream as 'on-line systems' and requires that the created lands provide for connectivity between habitats including continuous fish passage.
3. Any material temporarily deposited or stockpiles on land is to be located well away from the waterway and to be contained by appropriate sediment control devices.
4. If any dam filling is proposed, then a s.37 permit under the *Fisheries Management Act* would be required to support the translocation of any native fish. There is no exemption available for this and permit must be applied for and granted prior to dam infilling works.
5. A mesh screen of no greater than 5mm must be used on dewatering pumps to prevent harm to small fish and their eggs.
6. Sediment and erosion controls are to be implemented in line with Best Management Practice as outlined in the publication "Managing Urban Stormwater: Soils and Construction" (4th Edition Landcom, 2004), commonly referred to as "The Blue Book" (see <https://www.environment.nsw.gov.au/research-and-publications/managing-urban-stormwater-soils-and-construction-volume-1-4th-edition>).

For any further information, please contact me at jess.hyland@dpi.nsw.gov.au or 0455 794 560.

Sincerely,



Jessica Hyland

Fisheries Manager, Coastal Systems, DPIRD Fisheries

Our ref: DOC24/584557-14

Concurrence and Referral

Penrith City Council

concurrence.referral@penrith.city

Letter uploaded to the NSW Planning Portal

Address: 221-227 Luddenham Road (Lot 1 DP 1293805) and 289-317 Luddenham Road (Lot 2 DP 1293805), Orchard Hills 2748

Proposal: Site preparation works, including bulk earthworks, construction of flood storage basins and the main internal estate road

Development Application no: DA24/0294, CNR-68778, A-85842

Received: 16 July 2024

Subject: General Terms of Approval for Integrated Development Application, *National Parks and Wildlife Act 1974*

Dear Concurrence and Referral team

This letter contains our general terms of approval for the above integrated development application that will require an Aboriginal Heritage Impact Permit pursuant to s.90 of the *National Parks and Wildlife Act 1974*.

We have reviewed the Aboriginal Cultural Heritage Assessment Report, prepared by EMM Consulting Pty Ltd dated 20 October 2023. The report has identified that Aboriginal objects will be impacted by the proposed development. Mitigation is proposed in the form of archaeological salvage excavation under an Aboriginal Heritage Impact Permit.

Council notified Heritage NSW on 1 August 2024 that no public submissions were received.

Considering the above, and in accordance with Section 4.47 of the *Environmental Planning and Assessment Act 1979*, the following general terms of approval are granted:

Approved development

Development must be in accordance with:

- a. Aboriginal cultural heritage assessment report, Alspec Industrial Park, Orchard Hills, prepared by EMM Consulting Pty Ltd, dated 20 October 2023.

- b. Statement of Environmental Effects, Bulk Earthworks and Subdivision, 221-227 and 289-317 Luddenham Road, Orchard Hills, prepared by Urbis Pty Ltd, dated April 2024.

Except as amended by the following general terms of approval:

1. A s.90 Aboriginal Heritage Impact Permit for the proposed works must be sought and granted prior to the commencement of works.
2. The Aboriginal Heritage Impact Permit application must be accompanied by appropriate documentation and mapping as outlined in Applying for an Aboriginal Heritage Impact Permit: Guide for applicants (2011).
3. Consultation with the Aboriginal community undertaken as part of the Aboriginal Heritage Impact Permit application must be in accordance with the Aboriginal cultural heritage consultation requirements for proponents 2010.
4. The Aboriginal Heritage Impact Permit application must be completed with reference to the requirements of the Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW (2011).
5. The Aboriginal Heritage Impact Permit application must include complete records satisfying the requirements of the Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales (2010).
6. Long term management of Aboriginal objects must be considered as part of the Aboriginal Heritage Impact Permit application.

Please note that any modification of the above development that will result in impacts to Aboriginal cultural heritage must be referred to Heritage NSW to determine whether changes to these general terms of approval are required.

Advice

- We note that the Statement of Environmental Effects maps a slightly smaller land area than was assessed in the Aboriginal cultural heritage assessment report. The Aboriginal Heritage Impact Permit application must not include land that is not covered by an approved development consent.
- Please ensure that the finalised Aboriginal cultural heritage assessment report includes Aboriginal Heritage Information Management System (AHIMS) site numbers for all sites that will be harmed by the proposed works and included in the Aboriginal Heritage Impact Permit application.

Aboriginal community consultation must be maintained

Consultation with the registered Aboriginal parties must be maintained. We recommend updates on the project are provided to the registered Aboriginal parties every 6 months to ensure the consultation is continuous.

If you have any questions regarding these general terms of approval, please contact Rose O'Sullivan, Principal Assessments Officer, at Heritage NSW on 4224 4177 or rose.osullivan@environment.nsw.gov.au.

Yours sincerely

Tempe Beavan

Tempe Beavan
Practice Lead Heritage Referrals
Heritage NSW
Department of Climate Change, Energy, the Environment and Water
As Delegate under *National Parks and Wildlife Act 1974*

15 August 2024