

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA14/0599
Proposed development:	Semi-Detached Dwellings x 2 & Torrens Title Subdivision x 2 Lots (Proposed Lot 2387 Laimbeer Place)
Property address:	Coreen Avenue, PENRITH NSW 2750
Property description:	Lot 1197 DP 1171491
Date received:	5 June 2014
Assessing officer	Clare Aslanis
Zoning:	ZONE R1 GEN RES - PT 7 NTH PEN PCCLEP 2008 ZONE RE1 PUB REC - PT 7 NTH PEN PCCLEP2008
Class of building:	Class 1a
Recommendations:	Approve

Executive Summary

Council is in receipt of a development application for Semi-Detached Dwellings x 2 & Torrens Title Subdivision x 2 Lots.

Under Penrith City Centre Local Environmental Plan 2008, the proposal is defined as Residential Accommodation. The subject site is zoned R1 General Residential and the proposal is a permissible land use in the zoning with Council consent.

An assessment under Section 79C of the Environmental Planning and Assessment Act 1979 has been undertaken and the application is recommended for approval.

Site & Surrounds

The 40 hectare North Penrith site is centrally located directly adjacent to Penrith Railway Station and immediately to the north of the Penrith City Centre. It is a strategic site, located within the Penrith Regional Centre as identified in the Metropolitan Plan 2036 and North West Draft Subregional Strategy.

The greater locality is characterised by a mixture of residential, industrial and recreational uses. Large industrial activities are located to the north on the opposite side of Coreen Avenue. New industrial development is located immediately to the west of the site with the residential suburb of Penrith located further to the east.

The land subject to this application is located on Proposed Lot 2387 Laimbeer Place, Penrith. The site is situated at the end of Laimbeer Place and adjoins the Mobil oil depot site. The site is an irregular shaped lot approximately 439.1m² in size and is orientated in a predominately south-west to north-east direction.

Proposal

The proposed development includes the following aspects:

- Construction of two single storey semi-detached dwellings comprising of living and dining areas and one bedroom per dwelling.
- A single car garage with a stacked space in front has been provided for each dwelling with access off Laimbeer Place.
- Subdivision of Lot 2387 to create two Torrens Title Lots (Lot 144 – 207.6m² and Lot 143 – 231.5m²).
- Associated landscaping and stormwater drainage works.

Plans that apply

- Penrith Local Environmental Plan 2008 (City Centre)
- Development Control Plan 2006
- Development Control Plan 2007 (City Centre)
- North Penrith Design Guidelines
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

• Section 79C - Evaluation

The development has been assessed in accordance with the matters for consideration under Section 79C of the Environmental Planning and Assessment Act 1979, as detailed below.

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

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

This Policy ensures the implementation of the BASIX scheme that encourages sustainable residential development. It requires certain kinds of residential development to be accompanied by a list of commitments to be carried out by applicants.

BASIX Certificate No. 562084M was submitted with the Development Application demonstrating compliance with set sustainability targets for water and energy efficiency and thermal comfort.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

An assessment has been undertaken of the application against relevant criteria within Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River (No 2—1997) and the application is satisfactory subject to recommended conditions of consent.

Penrith Local Environmental Plan 2008 (City Centre)

Provision	Compliance
Clause 2 - Aims of the Plan	Complies
Clause 12 - Zoning of land to which this plan applies	Complies
Clause 13 - Zone objectives	N/A

Clause 15 - Additional permitted uses for particular land	N/A
Clause 16 - Subdivision consent requirements	Complies
Clause 17 - Temporary use of land	N/A
Clause 21 - Height of buildings	N/A
Clause 22 - Architectural roof features	N/A
Clause 23 - Sun Access	N/A
Clause 24 - Floor space ratio	N/A
Clause 25 - Minimum building street frontage	N/A
Clause 26 - Design Excellence	N/A
Clause 27 -Car parking	N/A
Clause 28 - Ground floor development within B3 and B4	N/A
Clause 29 - Building separation	N/A
Clause 30 - Ecologically sustainable development	Complies
Clause 31 - Serviced apartments	N/A
Clause 32 - Exceptions to development standards	N/A
Clause 33 - Land acquisition within certain zones	N/A
Clause 34 - Development on proposed classified roads	N/A
Clause 35 - Classification and reclassification of public land	N/A
Clause 36 - Community use of educational establishments	N/A
Clause 37 - Classified roads	N/A
Clause 38 - Development in proximity to a rail corridor	Complies
Clause 39 - Preservation of trees or vegetation	Complies
Clause 40 - Heritage conservation	N/A
Clause 41 - Bush fire hazard reduction	N/A
Clause 42 - Development for group homes	N/A
Clause 43 - Crown development and public utilities	N/A
Clause 44 - Location of sex services premises and restricted premises	N/A
Schedule 1 - Additional permitted uses	N/A
Clause 45 - Application of Part	N/A
Clause 46 - Interpretation	N/A
Clause 48 - Suspension of covenants, agreements and instruments	N/A
Clause 49 - Land use zones	Complies
Clause 50 - zone objectives and land use table	Complies
Clause 51 - Height of buildings	Complies

Clause 52 - Development near zone boundaries	N/A
Clause 53 - Architectural roof features	N/A
Clause 54 - Heritage Conservation	N/A
Clause 55 - Earthworks	Complies
Clause 56 - Savings provision relating to pending applications	N/A
Clause 47 - Certain planning instruments cease to apply to the land	N/A

Part 7 - North Penrith

The subject site is zoned R1 General Residential under Penrith City Centre Local Environmental Plan 2008. The proposed development is defined as Residential Accommodation which means a building or place used predominantly as a place of residence, but does not include tourist and visitor accommodation. Residential Accommodation is permissible under Clause 50 with the consent of Council.

Clause 16 – Subdivision

The subdivision of land is permissible with the consent of Council. There are no other provisions in relation to this aspect. A concept subdivision layout was approved as part of the Major Project approval, which identifies this lot as one that could be further subdivided into two lots. The proposed subdivision is inconsistent with the layout indicated on the concept plan, however due to a drainage easement restricting the site one of the lots would not be able to cater for a dwelling. With the proposed subdivision, a one bedroom semi detached dwelling is able to be suitably located on each lot. The proposed subdivision layout is therefore appropriate.

Clause 51 - Height of Buildings

The site is identified on map HOB 001 as having a maximum building height requirement of 12m. The subject application proposes a maximum building height of 4.96m and is compliant with the provisions of this clause.

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

The Stage 2 Penrith Planning Proposal was placed on public exhibition on 13 May 2013. The relevant sections of the Planning Proposal have been reviewed and there are no proposed changes to the controls relating to development within the North Penrith Precinct.

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

Development Control Plan 2006

Provision	Compliance
Chapter 2.1 - Contaminated land	N/A
Chapter 2.2 - Crime prevention through environmental design	Complies
Chapter 2.3 - Engineering works	Complies
Chapter 2.4 - Erosion and sediment control	Complies
Chapter 2.5 - Heritage management	N/A
Chapter 2.6 - Landscape	Complies
Chapter 2.7 - Notification and advertising	Complies
Chapter 2.8 - Significant trees and gardens	N/A
Chapter 2.9 - Waste planning	Complies
Chapter 2.10 - Flood liable land	N/A
Chapter 2.11 - Car parking	Complies
Chapter 2.12 - On-site sewage management	N/A
Chapter 2.13 - Tree preservation	N/A
Chapter 4.7 - Guidelines for subdivision	Complies
Chapter 4.8 - Construction works	Complies

Development Control Plan 2007 (City Centre)

Provision	Compliance
Part 4 - Accessing, parking and servicing	Complies

North Penrith Design Guidelines

Provision	Compliance
North Penrith Design Guidelines	Complies - see Appendix - Development Control Plan Compliance

Section 79C(1)(a)(iiia) The provisions of any planning agreement

There are no planning agreements applying to this application.

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

The proposal is compatible with the surrounding and adjacent land uses and will have no major impact on the amenity of the area. The proposal will have no adverse impacts on the natural environment. Additionally, the development will not generate any significant social or economic impacts.

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

The site attributes are conducive to the development proposal. The proposal has been designed in a manner consistent with the future character of the locality.

Section 79C(1)(d) Any Submissions

Community Consultation

The application was not required to be notified as all adjoining lots remain under the ownership of Urban Growth, who are facilitating the subdivision. Urban Growth have stamped the plans for approval.

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 - subject to conditions

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

The proposed development will not generate any significant issues of public interest.

Section 94 - Developer Contributions Plans

The following Section 94 plans apply to the site:

- Section 94 - District Open Space Facilities

The following Section 94 calculations apply to the proposed development.

Calculation for a Two Dwellings					
Open Space					
No. of units	x	Rate	-	Credit for existing dwelling/s	Contribution rate
2	x	\$2,704.00	-	0	\$5,408.00

AMOUNT		
S.94 Contribution Plan	Contribution Rate x Calculation rate	Total
District Open Space	2 X \$2,704.00	\$5,408.00
	NET TOTAL	\$5,408.00

Conclusion

In assessing this application against the relevant environmental planning policies, the proposal satisfies the aims, objectives and provisions of these policies. In its current form, the proposal will have a positive impact on the surrounding character of the area. The proposed design is site responsive, complies with key development standards and is in the public interest. The site is suitable for the proposed development, the proposal is in the public interest, and there is unlikely to be negative impacts arising from the proposed development.

Therefore, the application is worthy of support, subject to recommended conditions.

Recommendation

1. That DA14/0599 for two single storey semi detached dwellings and two lot torrens subdivision at proposed Lot 2387 Laimbeer Place, Penrith, be approved subject to the attached conditions.

CONDITIONS

General

1 [A001](#)

The development must be implemented substantially in accordance with the plans tabled below and stamped approved by Council, the application form, the BASIX Certificate and any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

Plan	Numbered	Drawn By	Dated
Site Plan Lot 143	1 of 7 (Issue A)	Eden Brae Homes	1 April 2014
Floor Plan Lot 143	2 of 7 (Issue A)	Eden Brae Homes	1 April 2014
Elevations Plan Lot 143	3 of 7 (Issue A)	Eden Brae Homes	1 April 2014
Section Plan Lot 143	4 of 7 (Issue A)	Eden Brae Homes	1 April 2014
BASIX Plan Lot 143	7 of 7 (Issue A)	Eden Brae Homes	1 April 2014
Site Plan Lot 144	1 of 7 (Issue B)	Eden Brae Homes	20 May 2014
Floor Plan Lot 144	2 of 7 (Issue B)	Eden Brae Homes	20 May 2014
Elevations Plan Lot 144	3 of 7 (Issue B)	Eden Brae Homes	20 May 2014
Section Plan Lot 144	4 of 7 (Issue B)	Eden Brae Homes	20 May 2014
BASIX Plan Lot 144	7 of 7 (Issue B)	Eden Brae Homes	20 May 2014
Landscape Plan Lot 143	1 to 11 (Issue A)	Ecodesign	17 April 2014
Landscape Plan Lot 144	1 to 11 (Issue A)	Ecodesign	17 April 2014
Subdivision Plan	72-10-238	Graham John Hall	21 February 2014

2 [A008 - Works to BCA requirements \(Always apply to building works\)](#)

The work must be carried out in accordance with the requirements of the Building Code of Australia. If the work relates to a residential building and is valued in excess of \$20,000, then a contract of insurance for the residential development shall be in force in accordance with Part 6 of the Home Building Act 1989.

{Note: Residential building includes alterations and additions to a dwelling, and structures associated with a dwelling house/dwelling such as a carport, garage, shed, rural shed, swimming pool and the like}.

3 [A009 - Residential Works DCP \(no specific section\)](#)

All construction works shall be in accordance with Penrith Development Control Plan-Residential Construction Works.

4 [A019 - OCCUPATION CERTIFICATE \(ALWAYS APPLY\)](#)

The development shall not be used or occupied until an Occupation Certificate has been issued.

5 [A046 - Obtain Construction Certificate before commencement of works](#)

A **Construction Certificate** shall be obtained prior to commencement of any building works.

6 [A Special \(BLANK\)](#)

Prior to the issue of a Construction Certificate, the parent Lot to which the development consent relates shall be registered at the Land and Property Information division of the Department of Lands.

Following registration of the subdivision the applicant is to demonstrate compliance with any restrictions on the use of the land arising from the 88B instrument that impact on the approved plans. The documentation shall be submitted to the Principal Certifying Authority for consideration and approval prior to the issue of a Construction Certificate.

Environmental Matters

7 [D001 - Implement approved sediment& erosion control measures](#)

Erosion and sediment control measures shall be installed **prior to the commencement of works on site** including approved clearing of site vegetation. The erosion and sediment control measures are to be maintained in accordance with the approved erosion and sediment control plan(s) for the development and the Department of Housing's "Managing Urban Stormwater: Soils and Construction" 2004.

8 **D007 - Cut and fill of land requiring Validation Certificate –limited to footprint**

Cut and fill operations on the property are only permitted in conjunction with the building works as detailed on the approved plans and specifications, and shall not extend more than 2 metres past the defined building footprint.

Before any fill material is imported to site, a validation certificate issued by an appropriately qualified person is to be provided to the Principal Certifying Authority. The validation certificate must demonstrate that the fill material is free from contaminants and weeds, that it is suitable for its intended purpose and land use, and that it will not pose an unacceptable risk to human health or the environment.

If Penrith City Council is not the Principal Certifying Authority, a copy of the validation certificate is to be submitted to Council for their reference.

{Note: Penrith Contaminated Land Development Control Plan defines an appropriately qualified person as “a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, eco-toxicology, sampling and analytical procedures, risk evaluation and remediation technologies. In addition, the person will be required to have appropriate professional indemnity and public risk insurance.”}

9 **D009 - Covering of waste storage area**

All waste materials stored on-site are to be contained within a designated area such as a waste bay or bin to ensure that no waste materials are allowed to enter the stormwater system or neighbouring properties. The designated waste storage areas shall provide at least two waste bays / bins so as to allow for the separation of wastes, and are to be fully enclosed when the site is unattended.

10 **D010 – Appropriate disposal of excavated or other waste**

All excavated material and other wastes generated as a result of the development are to be re-used, recycled or disposed of in accordance with the approved waste management plan.

Waste materials not specified in the approved waste management plan are to be disposed of at a lawful waste management facility. Where the disposal location or waste materials have not been identified in the waste management plan, details shall be provided to the Certifying Authority as part of the waste management documentation accompanying the Construction Certificate application.

All receipts and supporting documentation must be retained in order to verify lawful disposal of materials and are to be made available to Penrith City Council on request.

11 **D011 - Traffic noise & acoustic report (if not submitted with DA, otherwise use H007)**

The site is in close proximity to Coreen Avenue and as such, the internal noise level of all sleeping areas of the building is not to exceed 35 dB(A) LAeq and 40dB(A) LAeq in other living areas. A report, prepared by a qualified acoustic consultant, detailing how the design and proposed construction of the building meets the noise criteria is to be submitted to the certifier issuing the Construction Certificate.

A certificate is to be obtained from a qualified acoustic consultant certifying that the building has been constructed to meet the noise criteria in accordance with the approved acoustic report. This certificate is to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

BCA Issues

12 **E001 - BCA compliance**

All aspects of the building design shall comply with the applicable performance requirements of the Building Code of Australia so as to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the on-going benefit of the community. Compliance with the performance requirements can only be achieved by:

(a) complying with the deemed to satisfy provisions, or

(b) formulating an alternative solution which:

- complies with the performance requirements, or
- is shown to be at least equivalent to the deemed to satisfy provision, or

(c) a combination of (a) and (b).

13 **E005 - Smoke detectors-interconnect**

The smoke alarms shall be interconnected so that the sounding of the alarm in one detector activates the alarm in all detectors.

Health Matters and OSSM installations

14 F006 - Water tank & nuisance

The rainwater tank must be maintained so as not to create a nuisance and it must be protected against mosquito infestation.

Utility Services

15 G001 - Installation of services and Service Clearances (subdivision)

Prior to the issue of a Subdivision Certificate, the following service authority clearances shall be obtained:

- a Section 73 Compliance Certificate under the Sydney Water Act 1994 shall be obtained from Sydney Water;
- a letter from Endeavor Energy stating that satisfactory arrangements have been made for electricity supply to all proposed allotments in the subdivision, including any necessary easements; and
- a letter from an approved telecommunications service provider that satisfactory arrangements have been made for underground telephone services to all proposed allotments in the subdivision, including any necessary easements.

These clearances are to be submitted to the Principal Certifying Authority.

16 G002 - Section 73 (not for

A Section 73 Compliance Certificate under the Sydney Water Act 1994 shall be obtained from Sydney Water. The application must be made through an authorised Water Servicing Coordinator. Please refer to “Your Business” section of Sydney Water’s website at www.sydneywater.com.au then the “e-developer” icon, or telephone 13 20 92.

The Section 73 Compliance Certificate must be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

17 G004 - Integral Energy

Prior to the issue of a Construction Certificate, a written clearance is to be obtained from Endeavour Energy stating that electrical services have been made available to the development or that arrangements have been entered into for the provision of services to the development.

18 G005 - Rainwater tank- Plumbing

A completed *Permit Application for Plumbing and Drainage Work* is to be submitted to Sydney Water at least two working days before the rainwater tank is installed and associated plumbing work is started on the site.

Construction

19 H001 - Stamped plans and erection of site notice

Stamped plans, specifications, a copy of the development consent, the Construction Certificate and any other Certificates to be relied upon shall be available on site at all times during construction.

The following details are to be displayed in a maximum of 2 signs to be erected on the site:

- the name of the Principal Certifying Authority, their address and telephone number,
- the name of the person in charge of the work site and telephone number at which that person may be contacted during work hours,
- that unauthorised entry to the work site is prohibited,
- the designated waste storage area must be covered when the site is unattended, and
- all sediment and erosion control measures shall be fully maintained until completion of the construction phase.

Signage but no more than 2 signs stating the above details are to be erected:

- at the commencement of, and for the full length of the, construction works onsite, and
- in a prominent position on the work site and in a manner that can be easily read by pedestrian traffic.

All construction signage is to be removed when the Occupation Certificate has been issued for the development.

20 H002 - All forms of construction

Prior to the commencement of construction works:

(a) Toilet facilities at or in the vicinity of the work site shall be provided at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be:

- a standard flushing toilet connected to a public sewer, or
- if that is not practicable, an accredited sewage management facility approved by the council, or
- alternatively, any other sewage management facility approved by council.

(b) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with the appropriate professional standards. All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

(c) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:

- must preserve and protect the building from damage, and
- if necessary, must underpin and support the building in an approved manner, and
- must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished. The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land, (includes a public road and any other public place).

(d) If the work involved in the erection or demolition of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place:

- if necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place,
- the work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place, and
- any such hoarding, fence or awning is to be removed when the work has been completed.

21 H014 - Slabs/ footings

Residential slabs and footings shall be designed and certified by a qualified practising Structural Engineer or a suitably qualified person in accordance with the requirements of AS 2870-1996 "Residential Slabs and Footings". Details are to be provided for consideration and approval prior to the issue of a Construction Certificate.

22 H015 - Termites

Details of the proposed termite management system shall be submitted for consideration and approval prior to the issue of a Construction Certificate. Council recommends that consideration be given to protection against subterranean termites in situations where termite resistant construction is used.

23 H022 - Survey

The building shall be set out by a registered surveyor. A Survey Certificate shall be undertaken and submitted to the Principal Certifying Authority when the building is constructed to ground floor slab level and frame stage with eaves and gutters installed.

24 H036 - Rainwater Tank (Also impose H037, H038, H039, G005 & Q010)

The rainwater tank(s) is to be:

- erected on a self-supporting base in the approved location on the property in accordance with the stamped-approved site plans for the development,
- structurally sound and constructed in accordance with AS/NZS 3500 1.2- 1998: National Plumbing and Drainage - Water Supply - Acceptable Solutions,
- fully enclosed and all openings sealed to prevent access by mosquitoes,
- fitted with a first flush device,
- fitted with a trickle system to top up from mains water,
- provided with an air gap, and
- installed by a licensed plumber in accordance with Sydney Water's "Plumbing requirements Information for rainwater tank suppliers and plumbers April 2003" and the NSW Code of Practice: Plumbing and Drainage.

Additionally, the following are to be provided:

- A back flow prevention device shall be provided at the water meter in accordance with Sydney Water requirements.
- In the event of a power failure, a back up supply of mains water shall be provided to at least one toilet in the dwelling.
- The rainwater tank(s) and associated piping is to be labelled 'Rainwater - Not for Drinking' in accordance with Sydney Water requirements.
- The rainwater tank and pipework is to be painted in colours matching the external finishes of the dwelling and is to be of non-reflective finish.
- The overflow for the rainwater tank is to be connected into the existing stormwater disposal system on the site.

Before a rainwater tank(s) can be used, a certificate or suitable document is to be submitted to the Principal Certifying Authority stating that the rainwater tank has been installed in accordance with:

- the Manufacturer's Specifications, and
- Sydney Water and NSW Health requirements.

This certificate or documentation is to be provided by the licensed plumber who installed the rainwater tank on the property, and is to be submitted prior to the issue of the Occupation Certificate.

25 H037 - Safe supply of water from catchment areas (Also impose H036, H038 & H039)

The catchment area (for the rainwater tank) includes the parts of the roof of the dwelling(s) from which water is collected and includes gutters. To ensure a safe supply of water:

- roof catchment areas must be kept clear of overhanging vegetation,
- gutters must have sufficient fall to downpipes to prevent pooling of water,
- overflow, discharge from bleed off pipes from roof mounted appliances such as airconditioners, hot water services and solar heaters must not discharge into the rainwater catchment area,
- for roofs containing lead based, tar based or asbestos material the tank supply must not be connected to drinking, bathing and gardening tap water outlets,
- appropriate measures must be installed to prevent foreign materials from contaminating the water which enters the rainwater tank.

26 H038 - Connection of rainwater tank supply (Also impose H036, H037 & H039)

The rainwater tank supply must not be connected to drinking and bathing water tap outlets.

27 H039 - Rainwater tank pumps (Also impose H036, H037 & H038)

The rainwater tank pump must not exceed 5dBA above ambient background noise level at the nearest residential property boundary. The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

28 [H041 - Hours of work \(other devt\)](#)

Construction works or subdivision works that are carried out in accordance with an approved consent that involve the use of heavy vehicles, heavy machinery and other equipment likely to cause offence to adjoining properties shall be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:

- Mondays to Fridays, 7am to 6pm
- Saturdays, 7am to 1pm (if inaudible on neighbouring residential premises), otherwise 8am to 1pm
- No work is permitted on Sundays and Public Holidays.

Other construction works carried out inside a building/tenancy and do not involve the use of equipment that emits noise are not restricted to the construction hours stated above.

The provisions of the Protection of the Environment Operations Act, 1997 in regulating offensive noise also apply to all construction works.

Engineering

29 [K016 - Stormwater](#)

Roof water drains shall be discharged into the street gutter or common line.

30 [K041 - Bond \(Authur unknown\) - Not adopted by Council](#)

An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Council's Public Infrastructure Assets. The bond is to be lodged with Council **prior to the issue of a Construction Certificate**. The bond shall be determined accordance with Council's adopted Fees and Charges.

The bond is refundable once a final inspection has been carried out by Council's City Works Department and the works have been completed to Council's satisfaction. The bond may be used to repair or reinstate any damage that occurs to Council's Public Infrastructure Assets as a result of the development works.

Contact Council's City Works Department on 4732 7777 or visit Council's website to obtain the form and request for final inspection.

31 [K202 - Section 138 Roads Act – Minor Works in the public road](#)

Prior to the issue of a Construction Certificate, a Section 138 Roads Act application, including payment of fees shall be lodged with Penrith City Council, as the Roads Authority for any works required in a public road. These works may include but are not limited to the following:

- Vehicular crossings (including kerb reinstatement of redundant vehicular crossings)
- Road opening for utilities and stormwater (including stormwater connection to Council infrastructure)
- Road occupancy or road closures

All works shall be carried out in accordance with the Roads Act approval, the development consent including the stamped approved plans, and Penrith City Council's specifications. Contact Council's **City Works Department** on (02) 4732 7777 for further information regarding the application process.

Note:

1. Approvals may also be required from the Roads and Maritime Services for classified roads. Council (being the Roads Authority under the Roads Act) shall approve the works completed on or over the road reserve. Contact Council's **City Works Department** on (02) 4732 7777 to arrange an inspection of the works (and payment of inspection fees, if required).

32 [K501 Roads Authority clearance](#)

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall ensure that all works within the road reserve have been inspected and approved by Penrith City Council.

33 [K Special \(BLANK\)](#)

No earthworks including cut and fill or building works including retaining walls, garden sheds or other structures are to be positioned within any easements unless permitted otherwise by an 88B instrument.

Landscaping

34 L001 - General

All landscape works are to be constructed in accordance with the stamped approved plans, and Sections F5 "Planting Techniques", F8 "Quality Assurance Standards" and F9 "Site Management Plan" of Penrith Council's Landscape Development Control Plan.

Landscaping shall be maintained:

- in accordance with the approved plan, and
- in a healthy state, and in perpetuity by the existing or future owners and occupiers of the property.

If any of the vegetation comprising that landscaping dies or is removed, it is to be replaced with vegetation of the same species and, to the greatest extent practicable, the same maturity as the vegetation which died or was removed.

35 L005 - Planting of plant

All plant material associated with the construction of approved landscaping is to be planted in accordance with the Tree Planting Specification prescribed in Penrith Council's Landscape Development Control Plan.

36 L006 - Aust Standard

All landscape works are to meet industry best practice and the following relevant Australian Standards:

- AS 4419 Soils for Landscaping and Garden Use,
- AS 4454 Composts, Soil Conditioners and Mulches, and
- AS 4373 Pruning of Amenity Trees.

Subdivision

37 M003 - Statutory boundary clearances

The proposed subdivision shall not encroach on any statutory boundary clearances or setbacks. A plan prepared by a registered surveyor showing the relative position of all buildings to the proposed boundaries shall be submitted to the Principal Certifying Authority.

38 M008 - Linen Plan

Prior to the Issue of a Subdivision Certificate, submission of the original Linen Plan and ten (10) copies shall be made. The Linen Plan must indicate that:

- a) All drainage easements, rights of way, restrictions and covenants are to be included on the linen plan.
- b) All dedications of roads/drainage are to be undertaken at no cost to Penrith City Council.

The following information is to be shown on one (1) copy of the plan.

- The location of all buildings and/or other permanent improvements shall comply with any statutory boundary clearances or setbacks as defined by the Building Code of Australia and Council's resolutions.
- All existing services are wholly contained within the lot served and/or covered by an appropriate easement.

39 M009 - 88B Instrument

Prior to the issue of a Subdivision Certificate, an 88B instrument shall be submitted to the Principal Certifying Authority with the subdivision plan. The 88B instrument shall incorporate, but not be limited to, the following:

- (a) A positive covenant requiring that the dwellings on the lots are to be constructed in accordance with the architectural plans approved via DA14/0599.
- (b) A right of carriageway burdening Lot 143 for the benefit of Lot 144, as shown on the approved plan of subdivision.

40 M014 - Surveyors certificate

A Surveyors Certificate is to be lodged with the application for a Subdivision Certificate that certifies that all pipes and services are located wholly within the property or within appropriate easements and that no services encroach boundaries.

Development Contributions

41 **N001 - Section 94 contribution (apply separate condition for each Contribution Plan)**

This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan(s) for District Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$5,408.00 is to be paid to Council by Urban Growth NSW prior to a Construction Certificate being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The S94 invoice accompanying this consent should accompany the contribution payment. The Section 94 Contributions Plan for District Open Space may be inspected at Council's Civic Centre, 601 High Street, Penrith.

Payment of Fees

42 **P001 - Costs**

All roadworks, dedications and drainage works are to be carried out at the applicant's cost.

43 **P002 - Fees associated with Council land (Applies to all works & add K019)**

Prior to the commencement of any works on site, all fees associated with Penrith City Council-owned land and infrastructure shall be paid to Council. These fees include Road Opening fees and Infrastructure Restoration fees.

Certification

44 **Q008 - Subdivision Certificate**

A Subdivision Certificate is to be obtained prior to the issue of an Occupation Certificate. The Subdivision Certificate will not be issued if any of the conditions in this consent relating to the subdivision are outstanding.

45 **Q01F - Notice of Commencement & Appointment of PCA2 (use for Fast Light only)**

Prior to the commencement of any earthworks or construction works on site, the proponent is to:

- (a) employ a Principal Certifying Authority to oversee that the said works carried out on the site are in accordance with the development consent and related Construction Certificate issued for the approved development, and with the relevant provisions of the Environmental Planning and Assessment Act and accompanying Regulation, and
- (b) submit a Notice of Commencement to Penrith City Council.

The Principal Certifying Authority shall submit to Council an "Appointment of Principal Certifying Authority" in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

Information to accompany the Notice of Commencement

Two (2) days before any earthworks or construction/demolition works are to commence on site (including the clearing site vegetation), the proponent shall submit a "Notice of Commencement" to Council in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

46 **Q05F - Occupation Certificate for Class10**

An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and prior to the occupation/use of the dwellings.

The Certificate shall not be issued if any conditions of this consent, but not the conditions relating to the operation of the development, are outstanding.

A copy of the Occupation Certificate and all necessary documentation supporting the issue of the Certificate is to be submitted to Penrith City Council, if Council is not the Principal Certifying Authority.

Appendix - Development Control Plan Compliance

North Penrith Design Guidelines

Concept Plan & North Penrith Design Guidelines 2013

The proposed development is subject to the North Penrith Design Guidelines 2013. A check list has been completed for the assessment:

	<i>Complies</i>			
	Y	N	NA	Comments
3.3 Building Envelopes (Fig. 9 & 10)				
• Max 2 – 3 storeys	Y			Single Storey.
• 3 rd storey max 60% of 2 nd storey			NA	Single Storey.
• Location / siting of 3 rd storey to enable adequate solar access & privacy			NA	Single Storey.
• Development adjacent to laneway no more than 2 storey			NA	Development not adjacent to laneway.
• Min 2700 floor-ceiling height to GF	Y			Floor to Ceiling Height for dwelling 2740mm.
Max depth of development				
• 15m length of 2 nd storey of dwelling			NA	Single Storey.
• 12m to 3 rd storey of dwelling from front boundary			NA	Single Storey.
• Max depth of ancillary development from rear lane is 8m	Y		NA	No ancillary development.
Front setbacks				
• 3 – 4.5m to front façade (except W side of H1 Thornton Hall)	Y	N		3383mm front setback to Lot 143. Lot 144 is an internal lot and generally maintains a minimum 3m setback from the front façade to the northern boundary. However due to the irregular shape of the allotment, it is 2508mm at the shortest point. This encroachment is minor and toward the rear of the property and will not be visible from the street.
• W side of H1 Thornton hall to accommodate tree retention/driveway			NA	
• 0m secondary street setback – 2m secondary street setback for first 7m from front boundary for articulation			NA	
Garage				
• 5.5m from front boundary • 1m behind Façade	Y			Both garages exceed 5.5m from the driveway entry.
Rear setbacks				

• 0.9m to GF level	Y			1200mm rear setback.
• 0m to garages/ancillary dwellings adjacent to rear lane			NA	
• 3m for allotments backing onto Lemongrove Rd and C3			NA	
Side setbacks				
• 0m to both sides to garages/ancillary dwellings			NA	
• 0m to dwelling house on 2 sides on lots less than 8m wide			NA	
• 0m to dwelling house on 1 side, 0.9m on 1 side on lots 8m wide and greater (for allotments backing onto Lemongrove Rd)	Y			0m on one side and 1.2m on other side for both dwellings.
• 4m to GF and 6m to upper levels for allotments backing onto Lemongrove Rd			NA	
3.4 Building Design and Articulation (Fig. 9 & 10)				
Articulation				
1 Primary element 2 Secondary elements – min depth 0.5m	Y			Porch.
• Setback 1m from front boundary	Y			Lot 144 = 2.94m Lot 143 = 3.4m
• May extend over 2 storeys (2 & 3 storey development)			NA	
• Corner lots – min 2m from primary & secondary street and include primary &/or secondary elements			NA	
• Lots on S, E or W side of street – articulation zone may incorporate POS including PPOS			NA	
• Third storey to be varied in light weight construction through use of materials/colours etc.			NA	
• Eaves overhang - 600mm min (to fascia)	Y			600mm eaves provided.
3.5 Private Open Space and Landscaping (Fig. 11)				
Private Open Space				
• 20% site area with min. dimension of 2m	Y			Lot 144 = 47.5m ² (22%) 2m dimension achieved. Lot 143 = 46.5m ² (20%) 2m dimension achieved.
Principal Private Open Space				
• Lot frontage <6m – 16m ² min. dimension 3m			NA	
• Lot frontage 6m to 10m – 18m ² min. dimension 3m			NA	

<ul style="list-style-type: none"> Lot frontage >10m – 24m² min. dimension 4m 	Y			<p>Lot 144 = PPOS 47.5m² (including alfresco), min 4m achieved.</p> <p>Lot 143 = PPOS 18m² (including alfresco), min 4m achieved.</p>
<ul style="list-style-type: none"> Lots on S, E or W side of street must not provide PPOS exclusively to front setback 	Y			PPOS is not within front setback. PPOS is at side of each dwelling.
<ul style="list-style-type: none"> PPOS in front setback must be adjacent to living space of dwelling and useable 			NA	
<ul style="list-style-type: none"> PPOS to balcony/rooftop: <ul style="list-style-type: none"> o min. 1m height fence/landscape screening o immediately adjacent to habitable room 			NA	
Solar Access				
<ul style="list-style-type: none"> Provide min. 2 hours sunlight to 50% of POS between 9am – 3pm on 21 June. 	Y			The POS achieves efficient amounts of private open space.
Landscaping				
<ul style="list-style-type: none"> Area inside 1m setback from front boundary to be soft landscape with species specified in Residential Design Palette Appendix C 	Y			Shrubs provided within 1m setback. Developer approved.
Front Fences				
<ul style="list-style-type: none"> 0.7m to 1.2m in height 	Y			Developer approved.
<ul style="list-style-type: none"> Solid components max 0.7m height and generally open style 	Y			Developer approved.
<ul style="list-style-type: none"> 1m behind front façade line 	Y			Developer approved.
<ul style="list-style-type: none"> Match the length of the articulation zone on the secondary frontage 	Y			Developer approved.
<ul style="list-style-type: none"> Not impede safe sight lines for pedestrians/traffic 	Y			Developer approved.
<ul style="list-style-type: none"> Allotments adjacent to open space to provide: <ul style="list-style-type: none"> o Articulated post and paling fences (w/ exposed posts) preferred o Provide passive surveillance of open space 	Y			Developer approved.
Dividing Fences				
<ul style="list-style-type: none"> Timber paling or lapped and capped fencing between allotments. No metal fencing permitted. 	Y			Marked on landscape plan.
3.7 Garages, Site Access & Parking (Fig. 12 & 13)				
Dwelling House Parking Rate				

• 1-2 bedrooms: 1 space/ dwelling	Y			Complies - 2 parking spaces provided for each dwelling in single garages and stacked in driveway.
• 3+ bedrooms: 2 spaces/dwelling			NA	
Garages (width at 3m from front street boundary)				
• Lots less than 8m wide				
o Rear loaded garage - if laneway access o Single / tandem front loaded garage - if no laneway			NA	
• Lots 8m to 12m wide				
o Single / tandem front loaded garage or o Double / tandem rear loaded garage	Y			Single loaded garage provided for each dwelling.
• Lots greater than 12m wide				
o Double / tandem front loaded garage or o Double / tandem rear loaded garage			NA	
• Single / tandem – max 3.2m wide • Double – max 6m wide	Y			Single garages both 3m wide.
• Carports/garages to be integrated with façade with setbacks overshadowing recess design to minimize impact	Y			
Site Access				
• Driveway location determined by house design and location of infrastructure.	Y			
• Compliance with 2890.1 – 2004	Y			
Visual Amenity				
Windows to habitable rooms within 3m of an adjacent dwelling to provide: • Obscured by fencing/screens/landscaping • Offset windows to limit views to adjacent windows • 1.5m sill height above floor level • fixed opaque glazing below 1.5m above floor level			NA	
• Screening to provide max 25% permeability			NA	
Acoustic Amenity				
• Generally development is to provide construction which achieves internal noise levels of: o 25dB to sleeping areas o 30dB to other living areas			NA	

<ul style="list-style-type: none"> • Residential development in close proximity to: <ul style="list-style-type: none"> o The rail corridor o Coreen Avenue o E & W sides of the Boulevard o The upgrade commuter carpark o Flanking Coreen Ave to the commuter carpark • Are to provide construction (refer BCA) which achieves internal noise levels of: <ul style="list-style-type: none"> o 35dB to sleeping areas o 40dB to other living areas 		N		<p>In accordance with the email advice from Michael Gange (Senior Engineer Team Leader from Renzo Tonin & Associates) dated 27 May 2014, the conclusion is that any property in Stage 2 that is north of Empire Circuit will require further assessment. The proposed lot is located to the south of Empire Circuit and as such, further acoustic assessment is required. A condition will be included to ensure this.</p>
3.9 Development in Proximity of a Rail Corridor				
<ul style="list-style-type: none"> • Residential development within 60m of the rail corridor to consider: <ul style="list-style-type: none"> o Interim Guidelines for Councils o Any matters raised by Rail Corporation NSW 			NA	
Entry Boulevard Lots				
<ul style="list-style-type: none"> • Min 2 storey on all lots – 3 storey preferred on corner lots • Materials/finishes to be consistent with Residential Design Palette • All garaging to be rear lane • Front fencing to be consistent – unify streetscape 			NA	
'Dress Circle' Park Lots				
<ul style="list-style-type: none"> • 3 storey encouraged (except ancillary dwellings) • Consistent built form/massing required to unify streetscape strong urban edge to oval • Balconies/terraces to overlook the oval • Materials/finishes to be consistent with Residential Design Palette • Identical facades – no more than 4 in a row • All garaging to be rear lane 			NA	
Innovation Lots				
<ul style="list-style-type: none"> • Demonstrate high level internal amenity to affordable dwellings • Max 2 storey with 0m side and rear setbacks permissible 			NA	
Canal Edge Lots				

<ul style="list-style-type: none"> • Min. 3 storey encouraged (except ancillary dwellings) • Create strong consistent edge to canal • Dwelling entrance stairs off canal walk to be paired together • GF level & front yard/POS to be raised above level of pedestrian boardwalk • Front fencing/landscaping for lots fronting canal to balance privacy and surveillance and to be consistent • Balconies/terraces to overlook the canal • Materials/finishes to be consistent with Residential Design Palette • All garaging to be rear lane 			NA	
Other Considerations				
<ul style="list-style-type: none"> • Developer stamp of approval? 	Y			Developer Approved