

PENRITH CITY COUNCIL

FAST LIGHT ASSESSMENT REPORT

Application number:	DA21/0167.01
Proposed development:	S4.55 Modification to Remove OSSM and Install a Septic Holding Tank including Connection to Sewer Main
Property address:	94 - 98 Nepean Avenue, PENRITH NSW 2750
Property description:	Lot 6 DP 38628
Date received:	30 July 2021
Assessing officer	Lawrence Ligato
Zoning:	R5 Large Lot Residential - LEP 2010
Class of building:	Class 1a
Recommendation:	Approve

Executive Summary

Council is in receipt of a development application (modification) for the subject development on the subject site and the proposal is a permissible land use with Council consent.

Site & Surrounds

The subject site is situated on the southern side of Nepean Avenue, Penrith. It is 1Ha in area, is orientated in a western direction and is relatively flat.

An inspection of the site was undertaken on 08/04/21 and the site is currently occupied by a single storey dwelling and associated outbuildings.

The surrounding area is characterised by rural/residential development.

Proposal

The proposed development involves:

- Demolition of existing dwelling/s, structures and outbuildings;
- Construction of single storey dwelling including parking, landscaping and associated drainage works; and
- Installation of an OSSM system.

The subject S4.55 modification involves:

- Remove OSSM and Install a Septic Holding Tank including Connection to Sewer Main.

Plans that apply

BUSHFIRE PRONE LAND (PARTLY)
1996 CENSUS COLLECTORS DISTRICT
PENRITH DCP 2014
GENERAL LIST
LOW FLOOD ISLAND
LEP 2010/ DCP 2014 - Scenic and Landscape Values
DCP 2014 - Tree Preservation Controls
DCP 2014 - General Information
PLAN INST - SREP NO 9 EXT IND (NO 2-1995) AA
PLAN INST - SREP NO 20 HAW NEP RIV (NO2-1997) AA
MISC - REP 20 RIVERINE SCENIC AREA
FLOOD RELATED DEVEL CONTROLS - LOW FLOOD ISLAND
Local Environmental Plan 2010
No Comp Devel under GHC – Env Sens Land
No Comp Devel under RH Code - Env Sens Land
No Comp Devel under C & I (NBA) Code - Env Sens Land
No Comp Devel under LRHDC – Env Sens Land
No Comp Devel under H Code - Env Sens Land
Asbestos Policy
PRECINCT 2010
SEC 94 CONTRIB PLAN - CULTURAL FACILITIES
SEC 94 CONTRIB PLAN - LOCAL OPEN SPACE 2007
SEC 94 CONTRIB PLAN - DISTRICT OPEN SPACE FACILS
SEC 7.12 CONTRIB PLAN - PENRITH CITYWIDE
STATE ENV PLANNING POLICIES - GENERAL LIST
SOUTH WARD
R5 Large Lot Residential - LEP 2010
LEP 2010 - Clause 7.2 Flood Planning
LEP 2010 - Clause 4.2A Res Devel and Subdn Prohib
LEP 2010 - Additional Land Use Notes

Planning Assessment

- **Section 4.14 - Bushfire prone land assessment**

The development has been assessed in accordance with the matters for consideration under Section 4.14 (Consultation and development consent—certain bush fire prone land) of the Environmental Planning and Assessment Act 1979, and having regard to those matters, the following points are made:

- The property is identified as bushfire prone land (classified grassland to the south).
- A site inspection was carried out on 8 April 2021.
- A condition will be imposed on the consent regarding the requirement of an IPA to negate the need for bush-fire construction requirements.

- **Section 4.15 - Evaluation**

The development has been assessed in accordance with the matters for consideration under Section 4.55(3) and Section 4.15 of the Environmental Planning and Assessment Act 1979, and having regard to those matters, the following issues have been considered:

In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application.

The likely impacts of the proposed modification application have been considered in accordance with Section 4.15 of the Act. Consideration is also given to relevant provisions of the Penrith LEP and DCP that are of relevance to the development the subject of this application.

- **Section 4.55(2) - Other modifications**

The development has been assessed in accordance with the matters for consideration under Section 4.15 and Section 4.55(2) of the Environmental Planning and Assessment Act 1979, and having regard to those matters, the following issues have been identified for further consideration

(2) Other modifications A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and

The application is satisfactory for the purpose of Section 4.55 (2) of the Environmental Planning and Assessment Act, 1979 - It has been demonstrated that the modified development is 'substantially the same' as the originally approved development.

(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and

Not applicable.

(c) it has notified the application in accordance with--(i) the regulations, if the regulations so require, or(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and

The application was not required to be notified.

(d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.

N/A

Section 4.15(1)(a)(i) The provisions of any environmental planning instrument

Is the development permissible in the zone?

Complies

Is the development consistent with any requirements of environmental planning instruments relevant to this proposal (including any applicable SEPP's, SREP's and LEP's)?

Complies

Section 4.15(1)(a)(ii) The provisions of any draft environmental planning instrument

Is the development consistent with any draft planning instruments relevant to this proposal

Complies

Section 4.15(1)(a)(iii) Any development control plan

Is the development consistent with the provisions of any development control plan relevant to this proposal?

Does not comply - See discussion

Section 4.15(1)(a)(iv) Any applicable regulations

Is the development consistent the provisions of any regulations relevant to this proposal?

Complies

Section 4.15(1)(b) The likely impacts of the development

Context and setting

Is the development consistent with the bulk, scale colour and design of other development in the locality?	Complies
Will the development have only a minor impact of the amenity of the area and the streetscape?	Complies
Is the development compatible with surrounding and adjacent land uses	Complies
Will the development have no or minimal impact on the amenity of the area in terms of:	
Sunlight (overshadowing):	Complies
Visual and acoustic privacy:	Complies
Views or vista:	Complies

Access and Transport

Will the development have no or minimal impact on the local road system	Complies
Is the existing and any proposed access arrangements and car parking on site adequate for the development?	Complies

Heritage

The property is not subject to any heritage order or is identified as heritage under a planning instrument.	N/A
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Soil

The development will have minimal impact on soil erosion and sedimentation	Complies
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Natural and Technological Hazards

The development is not subject to flooding, subsidence or slip	Complies - See discussion
Land is not considered to be contaminated:	Complies
Bushfire requirements provided for the development	Complies
Acoustic requirements provided for the development	N/A

Site design

The development is sensitive to environmental conditions and site attributes.	Complies
Does the development safe guard the health and safety of the occupants	Complies

Section 4.15(1)(c) The suitability of the site for development

Was the site inspected?	Yes
Does the proposal fit locality?	Yes
Are the site attributes conducive to development?	Yes
Will the proposal have minimal social and economic impacts on the locality?	Yes
Has any applicable 88b instrument been considered?	Yes
Does the development propose the removal of trees?	Yes
Have the plans been checked by any relevant developer groups?	N/A
Has a BASIX certificate been provided?	Yes

Section 4.15(1)(d) Any submissions made in accordance with the EPA Act and Regulations?

Was the application required to be publicly notified?	Yes
Were any submissions received during the public notification period?	No

Section 4.15(1)(e)Public Interest

The application will have minimal impacts on public interest	Complies
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Conclusion/Summary

The proposed development as modified is considered to be substantially the same development as that originally approved. The application has been considered with regard to the matters raised in Section 4.15 and Section 4.55 of the Act. On balance, it is considered that the proposed development as modified is acceptable.

Recommendation

That DA21/0276.01 for S4.55 Modification to Remove OSSM and Install a Septic Holding Tank including Connection to Sewer Main at 94 - 98 Nepean Avenue PENRITH NSW 2750, be approved subject to the attached modified, removed and additional conditions.

As amended on 2 November 2021 under Section 4.55 of the Environmental Planning and Assessment Act 1979.

General

1 [A001 - Approved plans that are architecturally drawn](#)

The development must be implemented substantially in accordance with the plans numbered 2081-20Cc, drawn by Adan Creative Designs and dated 03-05-21 (Issue C), 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.

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

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

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

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

5 [A special - Bushfire](#)

From the start of building works, and in perpetuity to ensure ongoing protection from the impact of bush fires, the property around the proposed dwelling must be maintained as an inner protection area (IPA), in accordance with the requirements of Appendix 4 of Planning for Bush Fire Protection 2019, as follows:

1. North and east to the property boundary; and,
2. South and west for a distance of 50 metres.

When establishing and maintaining an IPA the following requirements apply:

1. Tree canopy cover should be less than 15% at maturity;
2. Trees at maturity should not touch or overhang the building;
3. Lower limbs should be removed up to a height of 2m above the ground;
4. Tree canopies should be separated by 2 to 5m;
5. Preference should be given to smooth barked and evergreen trees;
6. Large discontinuities or gaps in vegetation should be provided to slow down or break the progress of fire towards buildings;
7. Shrubs should not be located under trees;
8. Shrubs should not form more than 10% ground cover; and
9. Clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation.
10. Grass should be kept mown (as a guide grass should be kept to no more than 100mm in height); and
11. Leaves and vegetation debris should be removed

6 [A special - City works](#)

Prior to commencement of works relating to the connection to the sewer main, the Private Pipeline Deed of Agreement letter must be approved by Penrith City Council. The Private Pipeline Deed of Agreement letter must be filled in, signed and lodged by the owner/s of the subject land, along with the relevant fees paid and Applications lodged as per Clause 12 e) ii. of this Deed of Agreement (on page 6), as listed below:

- Council fee for a New Private Pipeline Agreement in accordance with Council's current Fees & Charges (\$950 for a Single Residential/Rural fee)
- Road Reserve Opening Permit application (the associated fees/bonds are calculated based off the total area of the Road Reserve being affected by works). Submit your Application by following this link: <https://www.penrithcity.nsw.gov.au/services/otherservices/roads-paths-driveways#quick-link-2>
- Temporary Road Reserve Occupancy Application (only if occupying part of a Council-owned road reserve); \$250 Admin Fee + \$250 per day of occupancy

Penrith City Council (being the Roads Authority under the Roads Act) shall approve the works completed on or over the road reserve, prior to the issue of any **Occupation Certificate**. Contact Council's City Works Department on (02) 4732 7777 to arrange an inspection of the works (and payment of inspection fees, if required).

As amended on 2 November 2021 under Section 4.55 of the Environmental Planning and Assessment Act 1979.

7 [A special - landscape hedging](#)

On completion of the development and prior to the issue of an **Occupation Certificate**, the appointed Principal Certifier must ensure that the proposed landscape screen hedging is planted at a minimum height of 1m which are nurtured to and capable of attaining a minimum height of 3m at maturity in the locations as shown on the stamped approved plans.

8 [A special - shed](#)

The ancillary development (pool, additional driveway, shed, outbuilding) as shown in the stamped approved hold well & pressure pipe connection to mains plan does not form part of this application.

As amended on 2 November 2021 under Section 4.55 of the Environmental Planning and Assessment Act 1979.

9 [A special -Sydney water](#)

The conditions contained within the stamped approved Sydney Water wastewater connection application - pump to sewer dated 25/06/2021 must be complied with at all times.

As amended on 2 November 2021 under Section 4.55 of the Environmental Planning and Assessment Act 1979.

Demolition

10 [B001 - Demolition of existing structures](#)

On completion of the development and prior to the issue of any **Occupation Certificate**, the appointed Principal Certifier must ensure that the existing dwelling and structures on the subject site are demolished as shown on the stamped approved plans.

The subject site is not to be adapted for use a dual occupancy development at any time.

As amended on 2 November 2021 under Section 4.55 of the Environmental Planning and Assessment Act 1979.

11 [B002 - AS FOR DEMOLITION AND DISPOSAL TO APPROVED LANDFILL SITE](#)

Condition removed.

As amended on 2 November 2021 under Section 4.55 of the Environmental Planning and Assessment Act 1979.

12 **B002 - AS FOR DEMOLITION AND DISPOSAL TO APPROVED LANDFILL SITE**

All demolition works are to be conducted in accordance with the provisions of AS 2601-1991 "The Demolition of Structures". **Prior to demolition**, all services shall be suitably disconnected and capped off or sealed to the satisfaction of the relevant service authority requirements.

All demolition and excavated material shall be disposed of at a Council approved site or waste facility. Details of the proposed disposal location(s) of all excavated material from the development site shall be provided to the Principal Certifying Authority **prior to commencement of demolition**.

13 **B003 - ASBESTOS**

Condition removed.

As amended on 2 November 2021 under Section 4.55 of the Environmental Planning and Assessment Act 1979.

14 **B003 - ASBESTOS (as amended from Council's adopted condition)**

Prior to commencement of demolition works on site, a portaloos with appropriate washing facilities shall be located on the site and the Principal Certifying Authority is to be satisfied that:

- Measures are in place so as to comply with the WorkCover Authority's "Short Guide to Working with Asbestos Cement" and
- The person employed to undertake the works is a licensed asbestos removal contractor and is holder of a current WorkCover Asbestos Licence.

Any demolition works involving the removal of all asbestos shall only be carried out by a licensed asbestos removal contractor who has a current WorkCover Asbestos Licence.

All asbestos laden waste, including asbestos cement flat and corrugated sheeting must be disposed of at a tipping facility licensed by the Environmental Protection Authority to receive asbestos wastes.

15 **B004 - Dust**

Dust suppression techniques are to be employed during demolition to reduce any potential nuisances to surrounding properties.

16 **B005 - Mud/Soil**

Mud and soil from vehicular movements to and from the site must not be deposited on the road.

17 **B006 - Hours of work**

Condition removed.

As amended on 2 November 2021 under Section 4.55 of the Environmental Planning and Assessment Act 1979.

18 **B006 - Hours of work**

Demolition works will 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 demolition work is permitted on Sundays and Public Holidays.

In the event that the demolition relates to works inside the building and do not involve external walls or the roof, and do not involve the use of equipment that emits noise then the demolition works are not restricted to the hours stated above.

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

As amended on 2 November 2021 under Section 4.55 of the Environmental Planning and Assessment Act 1979.

Environmental Matters

19 **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 Department of Housing's "Managing Urban Stormwater: Soils and Construction" 2004.

The sediment and erosion control measures are to be installed **prior to and maintained throughout the construction phase of the development until the land, that was subject to the works, has been stabilised and grass cover established.** These measures shall ensure that mud and soil from vehicular movements to and from the site does not occur during the construction of the development.

20 **D005 – No filling without prior approval (may need to add D006)**

No fill material is to be imported to the site without the prior approval of Penrith City Council in accordance with Sydney Regional Environmental Plan No.20 (Hawkesbury- Nepean River) (No.2-1997). No recycling of material for use as fill material shall be carried out on the site without the prior approval of Council.

As amended on 2 November 2021 under Section 4.55 of the Environmental Planning and Assessment Act 1979.

21 **D006 - No filling without prior approval (Use always, except for bulk earthworks/ major fill operations)**

No fill material shall be imported to the site until such time as a Validation Certificate(with a copy of any report forming the basis for the validation) for the fill material has been submitted to, considered and approved by Council. The Validation Certificate shall:

- state the legal property description of the fill material source site,
- be prepared by an appropriately qualified person (as defined in Penrith Contaminated Land Development Control Plan) with consideration of all relevant guidelines (e.g. EPA, ANZECC, NH&MRC), standards, planning instruments and legislation,
- provide details of the volume of fill material to be used in the filling operations,
- provide a classification of the fill material to be imported to the site in accordance with the Environment Protection Authority's "Environmental Guidelines: Assessment, Classification & Management of Non-Liquid Wastes" 1997, and
- (based on the fill classification) determine whether the fill material is suitable for its intended purpose and land use and whether the fill material will or will not pose an unacceptable risk to human health or the environment.

{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."}

If the Principal Certifying Authority or Penrith City Council is not satisfied that suitable fill materials have been used on the site, further site investigations or remediation works may be requested. In these circumstances the works shall be carried out prior to any further approved works.

22 **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."}

23 [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.

24 [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.

25 [D014 - Plant and equipment noise](#)

The operating noise level of plant and equipment shall not exceed 5dB(A) above the background noise level when measured at the boundaries of the premises. The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

BCA Issues

26 [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).

Health Matters and OSSM installations

27 [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.

Construction

28 **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 is 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.

29 **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).

30 **H022 - Survey (as amended)**

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.

31 **H030 – Roof finishes (rural property)**

The roof of the structure is to be a dull, non-reflective surface and colour. The external finishes of the dwelling are to be in accordance with the stamped approved colour schedule.

32 **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.

33 **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.

34 **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.

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

The 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.

36 [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

37 [K101 - Works at No Cost to Council](#)

All roadworks, stormwater drainage works, signage, line marking, associated civil works and dedications required to effect the consented development shall be undertaken by the applicant at no cost to Penrith City Council.

38 [K201 - Infrastructure Bond](#)

An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Penrith City Council's Public Infrastructure Assets. The bond is to be lodged with Penrith City Council prior to commencement of any works on site or prior to the issue of any Construction Certificate, whichever occurs first. The bond and applicable fees are in accordance with Council's adopted Fees and Charges.

An application form together with an information sheet and conditions are available on Council's website.

Contact Penrith City Council's Asset Management Department on 4732 7777 or visit Penrith City Council's website for more information.

39 [K202 - S138 Roads Act - Minor Works in the Public Road](#)

Prior to the issue of any Construction Certificate, a Section 138 Roads Act application, including payment of application and inspection fees together with any applicable bonds, shall be lodged with and approved by Penrith City Council (being the Roads Authority for any works required in a public road). These works may include but are not limited to the following:

- a) Vehicular crossings (including kerb reinstatement of redundant vehicular crossings)
- b) Road opening for utilities
- c) Road occupancy or road closures (including temporary construction work zones)
- d) The placement of hoardings, structures, containers, waste skips, signs etc. in the road reserve
- e) Temporary construction access

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, guidelines and best engineering practice.

Contact Penrith City Council's Asset Management Department on 4732 7777 or visit Penrith City Council's website for more information.

Note:

- Where Penrith City Council is the Certifier for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
- All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate as applicable.

40 **K209 - Stormwater Discharge - Minor Development**

Stormwater drainage from the site shall be discharged to a level spreader system. The stormwater drainage system shall be designed in accordance with Penrith City Council's Stormwater Drainage Specification for Building Developments. The design shall ensure that the development has no adverse impact on adjoining properties by the diversion, damming or concentration of stormwater flows. The proposed method of stormwater discharge shall be detailed in the Construction Certificate issued by the Certifier.

41 **K214 - Flooding - Floor Levels**

Prior to the issue of any Construction Certificate, the Certifier shall ensure that all habitable floor levels are in accordance with the stamped approved plans with a minimum floor level of RL 27.4m AHD (adopted flood level + 0.5m freeboard).

42 **K216 - Flooding - Garage Levels**

Prior to the issue of any Construction Certificate, the Certifier shall ensure that the garage floor level is a minimum of RL 27.0m AHD.

43 **K223 - Access, Car Parking and Manoeuvring - Minor Development**

Prior to the issue of any Construction Certificate, the Certifier shall ensure that:

- a) Off street access and parking complies with Penrith City Council's Development Control Plan and AS2890.1.
- b) Sight distances at the street frontage have been provided in accordance with AS2890.1.

44 **K401 - Flooding - Surveyor Verification of Floor Levels**

A certificate by a registered surveyor verifying that all habitable floor levels are at or above RL 27.4m AHD (adopted flood level + 0.5m freeboard) shall be submitted upon completion of the building to that level. No further construction of the building is to be carried out until approval to proceed is issued by the Certifier.

45 **K405 - Turf to Verge**

Upon completion of all works in the road reserve, all verge areas fronting and within the development are to be turfed. The turf shall extend from the back of kerb to the property boundary, with the exception of concrete footpaths, service lids or other infrastructure which is not to be turfed over. Turf laid up to concrete footpaths, service lids or other infrastructure shall finish flush with the edge.

46 **K501 - Penrith City Council Clearance - Roads Act / Local Government Act**

Prior to the issue of any Occupation Certificate, the Principal Certifier shall ensure that all works associated with a S138 Roads Act approval have been inspected and signed off by Penrith City Council.

Landscaping

47 **L001 - General landscaping (applies to most building works)**

All landscape works are to be constructed in accordance with the stamped approved plan and Sections F5 "Planting Techniques", F8 "Quality Assurance Standards", 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.

48 **L008 - Tree Preservation Order**

No trees are to be removed, ringbarked, cut, topped or lopped or wilfully destroyed other than those within 3 metres of the proposed building footprint or as shown on the approved plans without the prior consent of Penrith City Council and in accordance with Council's Tree Preservation Order and Policy.

Payment of Fees

49 **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

50 **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.

51 **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 development.

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.

Operation of OSSM

52 **R101 - Operational Approval prior to use**

The sewer pumpwell and connection to Sydney Water's sewer main shall be installed and operated in accordance with the:

- "Environmental and Health Protection Guidelines On Site Sewage Management for Single Households"
- Council's On-Site Sewage Management and Greywater Reuse Policy,
- Econocycle 1000 PUMPWELL NSW Health Accreditation documentation,
- the Amended Site Plan 'Hold well and pressure pipe connection to mains' for 94-98 Nepean Av, Penrith,
- Sydney Water's requirements,
- And, the conditions of this consent.

Prior to the issue of the 'Approval to Operate', a Commissioning Certificate for the pumpwell system shall be provided to Penrith City Council for approval. This Certificate shall be prepared by a licensed plumber and certify that the pump to sewer system is operating in a satisfactory manner to discharge all wastewater from the premises to Sydney Water's sewer main. A Works As Executed site plan is to be included showing the location of all sewerage infrastructure.

Prior to the issue of the Occupation Certificate and before the OSSM system can be used, an 'Approval to Operate' for the OSSM system is to be sought from and issued by Penrith City Council.

As amended on 2 November 2021 under Section 4.55 of the Environmental Planning and Assessment Act 1979.

53 [R102 - OSSM System Type and Disposal Area \(all systems\)](#)

All wastewater generated on the site is to be diverted to a sewer pumpwell and connection to Sydney Water's sewer main.

The sewer pumpwell and connection to Sydney Water's sewer main shall be installed and managed in accordance with the:

- “Environmental and Health Protection Guidelines On Site Sewage Management for Single Households”
- Council's On-Site Sewage Management and Greywater Reuse Policy,
- Econocycle 1000 PUMPWELL NSW Health Accreditation documentation,
- the Amended Site Plan 'Hold well and pressure pipe connection to mains' for 94-98 Nepean Av, Penrith,
- Sydney Water's requirements,
- And, the conditions of this consent.

The system is to be utilised for a 5 bedroom dwelling or daily wastewater load of 900 litres. Any dwelling approval on the site greater than this may require a wastewater report for Council's consideration.

As amended on 2 November 2021 under Section 4.55 of the Environmental Planning and Assessment Act 1979.

54 [R103 - Council inspections for Installation](#)

Penrith City Council is both the consent authority and certifying authority for the installation of the On-Site Sewage Management System (OSSM). **It is your responsibility to contact Council's Development Services Department to organise all inspections required for the installation of the system.**

In this regard, the pumpwell will need to be inspected on completion of the system's installation (before backfilling occurs) and prior to its commissioning, to ensure compliance with those conditions specific to the installation of the system.

A copy of the satisfactory inspection reports carried out by Council shall be submitted to the Principal Certifying Authority if Council is not the Principal Certifying Authority.

As amended on 2 November 2021 under Section 4.55 of the Environmental Planning and Assessment Act 1979.

55 [R104 - No alterations without approval](#)

The pumpwell and connection to Sydney Water's sewer main shall not be altered without the prior approval of Council. In addition, the pumpwell shall not be covered.

As amended on 2 November 2021 under Section 4.55 of the Environmental Planning and Assessment Act 1979.

56 [R105 - Plumbing Code of Australia](#)

All house drainage and sanitary plumbing shall be carried out in accordance with the requirements of the Plumbing and Drainage Act 2011 and the Plumbing Code of Australia.

57 [R106 - AWTS - Design of Irrigation System](#)

Condition removed.

As amended on 2 November 2021 under Section 4.55 of the Environmental Planning and Assessment Act 1979.

58 [R107 - AWTS - Irrigation pipework \(surface or sub-surface\)](#)

Condition removed.

As amended on 2 November 2021 under Section 4.55 of the Environmental Planning and Assessment Act 1979.

59 [R109 - No effluent runoff](#)

There shall be no effluent runoff from the subject property to adjoining premises, public places or reserves.

60 [R110 - EMA Signage](#)

Condition removed.

As amended on 2 November 2021 under Section 4.55 of the Environmental Planning and Assessment Act 1979.

61 [R111 - AWTS Servicing](#)

Condition removed.

As amended on 2 November 2021 under Section 4.55 of the Environmental Planning and Assessment Act 1979.

62 [R113 - Decommission old system](#)

The contents of the existing septic tank are to be removed by a licensed waste contractor and deposited to an approved waste facility. The disconnected tank shall be removed, demolished or filled with clean soil and garden lime. Documentation of the collection and disposal of waste are to be retained and provided to Council on request.

63 [R114 - EMA Turfed](#)

Condition removed.

As amended on 2 November 2021 under Section 4.55 of the Environmental Planning and Assessment Act 1979.

64 [R115 - No structures on EMA](#)

Condition removed.

As amended on 2 November 2021 under Section 4.55 of the Environmental Planning and Assessment Act 1979.

65 [R116 - Diversion of stormwater](#)

Condition removed.

As amended on 2 November 2021 under Section 4.55 of the Environmental Planning and Assessment Act 1979.

66 [R117 - No plants for human consumption within EMA](#)

Condition removed.

As amended on 2 November 2021 under Section 4.55 of the Environmental Planning and Assessment Act 1979.

67 [R118 - EMA protected from stock damage](#)

Condition removed.

As amended on 2 November 2021 under Section 4.55 of the Environmental Planning and Assessment Act 1979.

68 [R127 - NSW Health Accreditation documentation required](#)

Condition removed.

As amended on 2 November 2021 under Section 4.55 of the Environmental Planning and Assessment Act 1979.

Appendix - Development Control Plan Compliance

D1.2 Rural Dwellings and Outbuildings	Complies Y/N	Comments
<p>1.2.1 Siting and Orientation of Dwellings and Outbuildings Dwellings and associated buildings should be sited to maximise the natural advantages of the land in terms of:</p> <ul style="list-style-type: none"> i) Protecting the privacy of proposed and existing buildings; ii) Providing flood-free access to the dwelling and a flood-free location for the dwelling itself; iii) Minimising risk from bush fire by considering slope, orientation and location of likely fire sources; iv) Maximising solar access; v) Retaining as much of the existing vegetation as possible; and vi) Minimising excavation, filling and high foundations by avoiding steep slopes (greater than 1 in 6). 	Yes	Landscape hedging is to be planted at minimum height of 1m and will form part of conditions of consent.
<p>b) The design of the development must consider all components including fencing, outbuildings, and driveways and landscaping.</p>	Yes	
<p>c) Where practical, all buildings on a site, including dwellings and outbuildings, should be clustered to improve the visual appearance of the development in its landscape setting and reduce the need for additional access roads and services.</p>	Yes	
<p>1.2.1 Landscape / Scenic Character a) Buildings on sloping land should be sited (where natural features permit) so they do not intrude into the skyline.</p>	Yes	
<p>b) Buildings should not be placed on the ridgeline or peak of any hill unless there are no alternative locations possible.</p>	Yes	
<p>c) Where practical, buildings should be sited to take advantage of existing vegetation to provide privacy from passing traffic and public places, screening from winds and a pleasant living environment</p>	Yes	
<p>d) Roads should be designed and located to run with the contours of the land.</p>	N/A	
<p>e) Rooflines and ridgelines should reflect the setting of the dwelling, incorporating simple shapes to step a building down with a sloping site or level change.</p>	N/A	
<p>f) Simple rooflines should be used to minimise the likelihood of twigs and leaves building up in valleys and presenting a bushfire hazard.</p>	Yes	
<p>1.2.2 Setbacks and Building Separations</p>		
<p>1) Setbacks from Roads</p>		
<p>a) A minimum setback of 15m from public roads is required for all dwellings and outbuildings. Formal parking areas are not permitted within the setback.</p>	Yes	15m
<p>b) A variety of setbacks will be encouraged to prevent rigidity in the streetscape.</p>	Yes	
<p>c) A minimum setback of 30m is required to all classified roads (except Mulgoa Road), Luddenham Road, Greendale Road and Park Road (except in the villages of Londonderry, Wallacia and Luddenham). Please contact Council to discuss.</p>	N/A	
<p>d) A minimum setback of 100m is required to Mulgoa Road for all dwellings and outbuildings (except in the Mulgoa Village).</p>	N/A	
<p>2) Setbacks from Watercourses</p>	N/A	
<p>a) A minimum setback of 100m is required from the Nepean River. This is measured from the top of the bank. The river includes all elements, such as lagoons and backwaters. Council will determine the minimum setback required if the "bank" is difficult to define.</p>		
<p>a) A minimum setback of 100m is required from the Nepean River. This is measured from the top of the bank. The river includes all elements, such as lagoons and backwaters. Council will determine the minimum setback required if the "bank" is difficult to define.</p>		
<p>b) A variety of setbacks will be encouraged to prevent rigidity in the streetscape.</p>	Yes	

c) A minimum setback of 40m is required from any other natural watercourses for all dwellings and outbuildings to minimise impacts on the watercourse.	N/A	
3) Building Separations and Side Boundary Setbacks		
a) Dwellings on adjacent properties should be considered when determining the location of a proposed dwelling to ensure that separation distances are maximised as far as is reasonably possible to maintain amenity for each dwelling and minimise noise and privacy intrusions.	Yes	
b) The minimum side setback for dwellings is 10m where the allotment is 2 hectares or larger.	Yes	5m and 13m to dwelling.
c) The minimum side setback for dwellings is 5m where the allotment is less than 2 hectares.	N/A	
d) Dwellings on one allotment should be separated as much as reasonably possible from any farm buildings or other buildings on adjacent allotments where there is potential for noise generation from those farm buildings/other buildings.	Yes	
1.2.3 Site Coverage, Bulk and Massing		

<p>1) Dwellings shall have a maximum ground floor footprint of 500m² (including any undercover car parking areas).Note: 'Ground floor footprint' is the area measured from the external face of any wall of any dwelling, outbuilding (other than a farm building), dual occupancy dwelling, garage or undercover car parking area, animal house or garden shed.</p> <p>'Ground floor footprint' is the area measured from the external face of any wall of any dwelling, outbuilding (other than a farm building), dual occupancy dwelling, garage or undercover car parking area, animal house or garden shed.</p>	No	552.90 -
		<p>The dwelling house and associated residential development is considered to be of a size and character that is considered to be appropriate for the site and housing on larger rural/residential lots and also some of the larger stately homes in the Nepean Avenue locality. The development on the site is considered to have minimal impact on the character of the area.</p> <p>The lifting the bar provisions have been adequately addressed by proposing a dwelling with high quality architectural design and high level of innovation in the design.</p>
<p>2) Dwellings shall have a maximum overall ground floor dimension of 45m, with a maximum of 18m at any one point.</p>	Yes	
<p>3) The maximum floor space of any second storey is to be 70% of the floor space of the lower storey of the dwelling.</p>	N/A	
<p>4) No more than three (3) undercover car parking spaces shall face towards a public road or place. Any additional garages shall be setback behind the building line and screened.</p>	Yes	
<p>5) A maximum ground floor footprint of 600m² will be permitted on any one allotment, including the dwelling and all associated structures, but excluding 'farm buildings' and any 'agricultural or non-agricultural development' referred to other parts of this chapter.</p>	Yes	<p>Shed was removed from the application. The existing dwelling and structures are to be removed prior to OC.</p>

1.2.4 Height, Scale and Design		
a) Dwellings shall be no more than two storeys in height, including garage and storage areas.	Yes	
b) If liveable rooms are located in the area immediately below the roof then this level will be counted as a storey.	N/A	
c) The maximum height of the ceiling of the top floor of all buildings should not exceed 8m above natural ground level.	Yes	
d) On sloping sites, split level development is preferred. The floor level of the dwelling at any point should not be greater than 1m above or below the natural ground level immediately below the floor level of that point. Cut and fill should be limited to 1m of cut and 1m of fill as shown in Figure D1.7.	Yes	1m fill required to achieve minimum FFL relating to flood related development controls.
Design and Quality		
a) The design of dwellings and associated structures should be sympathetic to the rural character of the area.	Yes	
b) Fencing is to be of an open rural nature consistent in style with that normally found in rural areas. Internal courtyard fencing or entry fencing should be sensitive to the rural environment.	N/A	
1.2.7 Materials and Colours		
1) Colours of external finishes should be in keeping with the natural surroundings, be non-reflective and utilise earthy tones, unless it can be demonstrated that the proposed colours and finishes will have no visual impact or will complement the rural character.	Yes	Colour schedule submitted.
2) Building materials with reflective surfaces such as large expanses of glass, unpainted corrugated iron, concrete blocks, sheet cladding or similar finishes should be avoided. Where these materials are unavoidable, they should be screened with landscaping to minimise visual impact.	Yes	
3) Re-sited dwellings may be considered in rural areas, however, the external finishes may be required to be upgraded to Council's satisfaction.	N/A	

Referral Body	Comments Received
Development Engineer	No objections - subject to conditions
Environmental - Environmental management	No objections - subject to conditions