

# PENRITH CITY COUNCIL

## NOTICE OF DETERMINATION

### DESCRIPTION OF DEVELOPMENT

Application number:	DA21/0433
Description of development:	Demolition of existing dwelling and outbuildings and construction of a new single storey dwelling and inground swimming pool
Classification of development:	Class 1a , Class 10b

### DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 1 DP 1221353
Property address:	14 Mt Vernon Road, MOUNT VERNON NSW 2178

### DETAILS OF THE APPLICANT

Name & Address:	T Benjamin 24 Galton Street WETHERILL PARK NSW 2164
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### DECISION OF CONSENT AUTHORITY

In accordance with Section 4.18(1) (a) of the Environmental Planning and Assessment Act 1979, consent is granted subject to the conditions listed in attachment 1.

Please note that this consent will lapse on the expiry date unless the development has commenced in that time.

Date from which consent operates	1 February 2022
Date the consent expires	1 February 2027
Date of this decision	31 January 2022

## POINT OF CONTACT

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If you have any questions regarding this determination you should contact:

Assessing Officer:	Adem Sertlioglu
Contact telephone number:	+61247327490

## NOTES

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### **Reasons**

The conditions in the attached schedule have been imposed in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 as amended.

### **Conditions**

Your attention is drawn to the attached conditions of consent in attachment 1.

### **Certification and advisory notes**

You should also check if this type of development requires a construction certificate in addition to this development consent.

It is recommended that you read any Advisory Note enclosed with this notice of determination.

### **Review of determination**

The applicant may request Council to review its determination pursuant to Division 8.2 of the Environmental Planning and Assessment Act 1979 within twelve months of receiving this Notice of Determination.

These provisions do not apply to designated development, complying development or crown development pursuant to Section 8.2(2) of the Environmental Planning and Assessment Act 1979.

### **Appeals in the Land and Environment Court**

The applicant can appeal against this decision in the Land and Environment Court within twelve months of receiving this Notice of Determination.

There is no right of appeal to a decision of the Independent Planning Commission or matters relating to a complying development certificate pursuant to clause 8.6(3) of the Environmental Planning and Assessment Act 1979.

### **Designated development**

If the application was for designated development and a written objection was made in respect to the application, the objector can appeal against this decision to the Land and Environment Court within 56 days after the date of this notice.

If the applicant appeals against this decision, objector(s) will be given a notice of the appeal and the objector(s) can apply to the Land and Environment Court within 56 days after the date of this appeal notice to attend the appeal and make submissions at that appeal.

### **Sydney Western City Planning Panels**

If the application was decided by the Sydney Western City Planning Panel, please refer to Section 2.16 of the Environmental Planning and Assessment Act, 1979 (as amended) for any further regulations.

# ATTACHMENT 1: CONDITIONS OF CONSENT

## Unallocated

- 1 Prior to issue of a construction certificate, the areas identified as Zones 2 Cumberland Plain Restoration and 3 Aquatic Habitat Restoration are to be identified on title in perpetuity subject to an 88b restriction on title to identify the restricted development area {RDA}.

The area is to be managed in perpetuity with the aim to maintain Cumberland Plain Woodland at this location.

The initial management of the area is subject to the requirements of the Vegetation Management Plan prepared by Narla Environmental and dated January 2022 {Final}, for a 5-year period. Beyond this 5-year term, the area must be maintained in perpetuity according to the intent of the VMP. Should the area not continue to be managed according to the requirements of the RDA or become degraded for any reason, a new VMP will be required.

## General

- 2 The development must be implemented substantially in accordance with the plans numbered A01, A02, A03 & A04, A05 and A06 drawn by ATJ Architects, Job number 2025 and dated August 2021 (Issue C), and stamped approved by Council, the application form, [the BASIX Certificate Number 1188558S and any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

- 3 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}.

- 4 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}.

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

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

- 7 The building shall be constructed in accordance with the provisions of "Planning for Bushfire Protection" November 2019, and to BAL-29 construction under AS3959-2018 "Construction of buildings in bushfire-prone areas.

## Demolition

8 **Prior to commencement of demolition works on site**, a portaloo 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.

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

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

11 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.

12 Prior to the commencement of works ~~(including clearing of native vegetation)~~ the following ecosystem credits listed in the table below must be retired.

The development must purchase and retire credits which may be satisfied by sourcing credits from the Biodiversity Credit market or payment to the Biodiversity Conservation Trust of an amount equivalent to the class and number of ecosystem credits, as calculated by the Biodiversity Offset Payment Calculator ~~(the amount payable to discharge an offset obligation will be determined at the time of payment)~~.

Table 1: Ecosystem credits required to be retired ~~(Like for Like)~~

Impacted Plant Community Type	Number of ecosystem credits	Offset Option	IBRA subregion	Plant community type(s) that can be used to offset the impacts from development

PCT 850 Cumberland shale hills woodland	1	Likeforlike	Cumberland, Burratorang, Pittwater, Sydney Cataract, Wollemi and Yengo Or Any IBRA subregion that is within 100 kilometres of the outer edge of the impacted site.	Cumberland Plain Woodland in the Sydney Basin Bioregion. This includes PCT's: 849, 850
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A retirement certificate from the NSW Department of Planning, Industry & Environment and/or Statement confirming payment into the Biodiversity Conservation Trust from the Biodiversity Conservation Trust to demonstrate compliance with this condition is to be provided to Penrith City Council's Manager – Environmental Health & Compliance prior to the commencement of works.

## Environmental Matters

- 13 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.

(Note: To obtain a copy of the publication, you should contact Landcom on (02) 98418600).

The approved sediment and erosion control measures are to be installed **prior to and maintained throughout the construction phase of the development until [the landscaping, driveway and on-site parking areas have been completed for the development. / the land, that was subject to the works, have been stabilised and grass cover established.] Delete whichever is not applicable** 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.

- 14 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.

- 15 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.

16 The operating noise level of the swimming pool filter 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 Operation Act 1997 apply to the development, in the terms of regulating offensive noise.

**17 88b restriction on title**

Prior to issue of a construction certificate, the areas identified as Zones 2 Cumberland Plain Restoration and 3 Aquatic Habitat Restoration are to be identified on title in perpetuity subject to an 88b restriction on title to identify the restricted development area (RDA).

The area is to be managed in perpetuity with the aim to maintain Cumberland Plain Woodland at this location.

The initial management of the area is subject to the requirements of the Vegetation Management Plan prepared by Narla Environmental and dated January 2022 (Final), for a 5-year period. Beyond this 5-year term, the area must be maintained in perpetuity according to the intent of the VMP. Should the area not continue to be managed according to the requirements of the RDA or become degraded for any reason, a new VMP will be required.

**18 Biodiversity Offset Requirements**

Prior to the commencement of works (including clearing of native vegetation) the following ecosystem credits listed in the table below must be retired.

The development must purchase and retire credits which may be satisfied by sourcing credits from the Biodiversity Credit market or payment to the Biodiversity Conservation Trust of an amount equivalent to the class and number of ecosystem credits, as calculated by the Biodiversity Offset Payment Calculator (the amount payable to discharge an offset obligation will be determined at the time of payment).

Table 1: Ecosystem credits required to be retired (Like for Like)

Impacted Plant Community Type	Number of ecosystem credits	Offset Option	IBRA subregion	Plant community type(s) that can be used to offset the impacts from development
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PCT 850 Cumberland shale hills woodland	1	Like- for-like	Cumberland, Burraborang, Pittwater, Sydney Cataract, Wollemi and Yengo Or Any IBRA subregion that is within 100 kilometres of the outer edge of the impacted site.	Cumberland Plain Woodland in the Sydney Basin Bioregion. This includes PCT's: 849, 850
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A retirement certificate from the NSW Department of Planning, Industry & Environment and/or Statement confirming payment into the Biodiversity Conservation Trust from the Biodiversity Conservation Trust to demonstrate compliance with this condition is to be provided to Penrith City Council's Manager – Environmental Health & Compliance prior to the commencement of works.

#### 19 Fauna protection – Pre-clearance survey

Pre-clearance survey: Within one week prior to any removal of vegetation a pre-clearance survey is required to be undertaken by a qualified and experienced Fauna Ecologist (with a license to remove and handle native wildlife) to:

1. Clearly identify (mark) trees approved for removal.
2. Confirm a rescue plan/protocol to enact during clearing activities- no individuals are to be translocated offsite. All displaced wildlife is to be relocated to suitable vegetation on site.
3. Confirm measures to exclude displaced wildlife from the construction zone.
4. Confirm response action to unexpected finds. Should threatened species be identified during the pre-clearance survey or during clearing activities, a stop work order must be enacted.
5. Assess receiving locations for any displaced wildlife.
6. Inspect all areas of habitat and provide pre-clearing recommendations to avoid harm or mortality of protected native fauna. This may include removal of identified fauna prior to works commencing or at the time of tree removal.
7. Conduct pre-clearance survey
8. Injured wildlife must be taken for treatment at a suitable wildlife veterinarian and placed into care with qualified wildlife carers, for safe return to site. These efforts will be at the expense of the proponent.
9. Non-native pest species must be treated humanely.
10. Maintain a record of any displaced / injured fauna
11. Report the survey results and actions taken during pre-clearing and clearing activities to Penrith City Council's Manager – Environmental Health & Compliance, within 1 month of clearing works.
12. Should there be any concerns, unexpected finds or incidents Penrith City Council's Biodiversity Officer is to be contacted.

#### 20 Fauna protection and tree removal

To mitigate and ameliorate the removal of native vegetation including the loss of trees on resident fauna the



following is required to be complied with:

1. During tree removal, an experienced and qualified Ecologist is to be present to re-locate any displaced fauna that may be disturbed during this activity.
2. Trees with hollows shall be lopped in a way that the risk of injury or mortality to fauna is minimised, such as top-down lopping, with lopped sections gently lowered to the ground, or by lowering whole trees to the ground with the 'grab' attachment of a machine.
3. The projects ecologist is responsible for fauna management and protection activities.
4. Any injured fauna is to be appropriately treated, cared for and released on site when rehabilitated. (See also pre-clearance survey).
5. **Salvage of habitat features:**
  - 5.1 Hollows must be sectionally dismantled from felled hollow-bearing trees and attached to a retained tree according to best practice and in a manner that will not compromise the health and safety of the host tree. This is to be done by a qualified and experienced climbing Arborist under the direction of the projects' Ecologist. Where this cannot occur, the hollow limb will be placed on the ground. (See also VMP)
  - 5.2 Logs should be salvaged from the development area and cut into 3 metre lengths. Logs from the largest diameter cohort are to be used where they can be installed without damaging native vegetation, under the direction of the projects' Ecologist or bush regenerator. (See also VMP)
  - 5.3 Suitable upper tree branches are to be salvaged and evenly distributed across the site and VMP area under the direction of the project' Ecologist or bush regenerator.
  - 5.4 Mulch – the remaining debris from the native vegetation is to be rigorously shaken to remove pollinators, prior to being mulched for use within the natural areas identified within the VMP.
  - 5.5 Exotic vegetation including priority weed species must not be mulched with native vegetation, to prevent the spread of weeds on site.
6. Nest boxes: There is no requirement to install nest boxes.
7. Additional measures: Where additional measures are identified by the projects' Ecologist these should be implemented, documented, and included in the VMP reporting requirements.
8. Should there be any concerns, unexpected finds or incidents Penrith City Council's Biodiversity Officer is to be contacted.

Please also refer to the Aboricultural Impact Assessment and Tree Management Plan.

## 21 Sediment and erosion control measures

Sediment and erosion control measures are to be installed prior to the commencement of works and maintained throughout the construction phase of the development and through until the land, that was subject to the works, has been stabilised.

These measures must ensure that mud and soil from vehicular movements to and from the site do not occur during the construction of the development.

Please also refer to the requirements of the Vegetation Management Plan relative to sediment and erosion control measures.

## 22 Tree preservation

No trees or other native vegetation (including shrubs and other understory vegetation) are to be removed, ringbarked, cut, topped, lopped, slashed, or wilfully destroyed (other than those approved) without the prior consent of Penrith City Council and in accordance the Biodiversity Conservation Act 2016 and associated regulations and Councils Tree Preservation Policy.

At any time throughout the construction phase, if there is a risk that additional native vegetation is likely to be impacted by the development, Council must be notified for onward assessment, prior to the impact occurring.

## 23 Tree protection measures

No fill, machinery, or materials are to be placed or stored within the drip line of any tree that is to be retained.

All trees that are required to be retained as part of the development are to be protected in accordance with the minimum tree protection standards as outlined in Australian Standard AS 4970-2009 'Protection of trees on development sites' and in accordance with the requirements of the Aboricultural impact assessment and tree management plan.

Prior to works commencing (including the removal of native vegetation) the tree protection measures must be inspected and approved by the Project Arborist and the Projects' Ecologist to confirm the trees identified for removal and removal are clearly identified. See also Pre-clearance survey.

## 24 Tree removal and retention

Tree removal and retention is specified within the Aboricultural impact assessment and tree management plan prepared by Redgum Horticultural and dated 17 December 2021 (6770.1).

The recommendations of this report are to be implemented in their entirety, except for the positioning of the replacement plants. While some replacement trees may be positioned for screening purposes, they must not conflict with the APZ requirements and must also address the replanting requirements of the VMP (at present the report references the landscaping plan).

The removal of native vegetation must be conducted in consultation with and under the supervision of the Projects' Ecologist to provide for the safety of protected native fauna.

See also,

Fauna protection and pre-clearance survey and Fauna protection and tree removal. Specifically noting:

Salvage of habitat features:

1.1 Hollows must be sectionally dismantled from felled hollow-bearing trees and attached to a retained tree according to best practice and in a manner that will not compromise the health and safety of the host tree. This is to be done by a qualified and experienced climbing Arborist under the direction of the projects' Ecologist. Where this cannot occur, the hollow limb will be placed on the ground. (See also VMP)

1.2 Logs should be salvaged from the development area and cut into 3 metre lengths. Logs from the largest diameter cohort are to be used where they can be installed without damaging native vegetation, under the direction of the projects' Ecologist or bush regenerator. (See also VMP)

1.3 Suitable upper tree branches are to be salvaged and evenly distributed across the site and VMP area under the direction of the project' Ecologist or bush regenerator.

1.4 Mulch – the remaining debris from the native vegetation is to be rigorously shaken to remove pollinators, prior to being mulched for use within the natural areas identified within the VMP.

1.5 Exotic vegetation including priority weed species must not be mulched with native vegetation, to prevent the spread of weeds on site.

## 25 Vegetation Management Plan

The Vegetation Management Plan prepared by Narla Environmental and dated January 2022 (Final) is to be implemented in its entirety.

Beyond the initial term of the VMP and the performance indicators being met, the site must be maintained

according to the requirements of the 88b and the APZ, in perpetuity.

Should the performance indicators for Zones 2 and 3 not be achieved within the 5 year term, as evaluated in the final reporting requirements and subject to an inspection by Councils' representative, an additional term (of 5 years or longer) will be required to ensure the performance indicators are met.

Where the landholder does not have the ability to achieve the requirements of the VMP, a suitable (qualified and experienced) bushland regenerator must be engaged to undertake ongoing works within zones 2 and 3.

The following additional requirements must be adhered to:

1. Replacement planting is currently specified as 2:1 for the 9 trees approved for removal (please refer to the Aboricultural Impact Assessment and Tree Management Plan). Subject to the constraints of the APZ and the requirement to provide for each trees growth to maturity, it is at the discretion of the Project Ecologist in consultation with the Project Arborist to modify the replacement planting requirements for trees removed to 1:1, with the specified 100% survival rate. The additional replacement planting requirements will be addressed by the midstory, and ground layer plantings indicated within the VMP.
2. Priority weeds are to be removed to an authorised waste transfer facility, and a receipt for disposal provided with the relevant reporting requirements.
3. Topsoil - please consider the additional strategy to import certified topsoil from the same PCT (for use in Zone 2) to help achieve the stated outcomes. This should be considered as a necessary step particularly where there has previously been a high proportion of environmental weeds, or sealed surfaces are being removed.
4. Mulch for use within Zone 2 – must be native, certified weed and pathogen free from the same or similar PCT.
5. Plants must be inspected prior to purchase and on delivery and must be weed and pathogen free.
6. Only use herbicides on site as appropriate to areas adjacent to waterways.
7. Watering as required for establishment and maintenance.
8. All salvaged material from the removal of native vegetation must be reused on site. This will include, but not be limited to, hollows, logs and mulch material. Please also refer to tree removal/salvage information.
9. Council may request a review and if necessary, updating of the plan to reflect current environmental standards and site conditions. Council must be satisfied with any changes prior to the amendment of the plan.

## **26 Waste management**

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 natural areas, stormwater system or neighbouring properties.

Regular inspections must be conducted, and adaptive management undertaken should a problem be identified.

All waste materials must be removed from natural areas on a regular basis (no less than weekly).

## **27 Weed and pathogen management**

Prior to works commencing, the initial weed treatment and the pathogen control measures as specified in the Vegetation Management Plan (VMP), must be implemented to control the spread of priority weeds and pathogens on or off site.

Priority weeds must be disposed of to a licenced approved waste facility, and confirmation of disposal

included with the reporting requirements prescribed by the VMP.

## Health Matters and OSSM installations

- 28 Pre-clearance survey: Within one week prior to any removal of vegetation a pre-clearance survey is required to be undertaken by a qualified and experienced Fauna Ecologist (with a license to remove and handle native wildlife) to:
1. Clearly identify (mark) trees approved for removal.
  2. Confirm a rescue plan/protocol to enact during clearing activities- no individuals are to be translocated offsite. All displaced wildlife is to be relocated to suitable vegetation on on site.
  3. Confirm measures to exclude displaced wildlife from the construction zone.
  4. Confirm response action to unexpected finds. Should threatened species be identified during the pre-clearance survey or during clearing activities, a stop work order must be enacted.
  5. Assess receiving locations for any displaced wildlife.
  6. Inspect all areas of habitat and provide pre-clearing recommendations to avoid harm or mortality of protected native fauna. This may include removal of identified fauna prior to works commencing or at the time of tree removal.
  7. Conduct pre-clearance survey
  8. Injured wildlife must be taken for treatment at a suitable wildlife veterinarian and placed into care with qualified wildlife carers, for safe return to site. These efforts will be at the expense of the proponent.
  9. Non-native pest species must be treated humanely.
  10. Maintain a record of any displaced / injured fauna
  11. Report the survey results and actions taken during pre-clearing and clearing activities to Penrith City Council's Manager – Environmental Health & Compliance, within 1 month of clearing works.
  12. Should there be any concerns, unexpected finds or incidents Penrith City Council's Biodiversity Officer is to be contacted.
- 29 To mitigate and ameliorate the removal of native vegetation including the loss of trees on resident fauna the following is required to be complied with:
1. During tree removal, an experienced and qualified Ecologist is to be present to re-locate any displaced fauna that may be disturbed during this activity.
  2. Trees with hollows shall be lopped in a way that the risk of injury or mortality to fauna is minimised, such as top-down lopping, with lopped sections gently lowered to the ground, or by lowering whole trees to the ground with the 'grab' attachment of a machine.
  3. The projects ecologist is responsible for fauna management and protection activities.
  4. Any injured fauna is to be appropriately treated, cared for and released on site when rehabilitated. (See also pre-clearance survey).

## Construction

- 30 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.

- 31 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).

- 32 Prior to the commencement of construction works: *Nominate*

(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).

- 33 Cut and fill is limited to a maximum of 1 metre, in accordance with Penrith Residential Construction Works Development Control Plan.
- 34 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.
- 35 The roof of the structure is to be a dull, non-reflective surface and colour. The external finishes of the dwelling are to compliment and blend with the established streetscape and amenity of the area.
- 36 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.

- 37 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.
- 38 The rainwater tank supply must not be connected to drinking and bathing water tap outlets.
- 39 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.
- 40 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.

- 41 To assist in the prevention of ember entry to the roof area, fire grade sarking with a flammability index not greater than five is to be used under all roofing. The sarking shall be located directly below the roofing battens and shall cover the entire roof area including the ridge.

## Swimming Pools

- 42 When the swimming pool construction has reached a stage where the pool is capable of holding water, the pool area shall be restricted from access in accordance with AS1926 "Swimming Pool Safety". Restriction of access to the pool area shall also comply with the Swimming Pools Act, 1992.

- 43 At all times, the swimming pool is to be surrounded by a child-resistant barrier that:
- separates the swimming pool from any residential building situated on the premises and from any place (whether public or private) adjoining the premises, and
  - is designed, constructed, installed and maintained in accordance with the standards prescribed by AS 1926 "Swimming Pool Safety".
- 44 For each window giving access to the swimming pool (but does not apply to a child-safe window or to a window that is totally enclosed by a child-safe grille):
- the bottom of the lowest opening panel of the window must (when measured in the closed position) be at least 1.2 metres above finished floor level, and
  - there must not be any footholds wider than 10 millimetres between the bottom of the lowest opening panel of the window and any point within 1.1 metres below the bottom of that panel.
- 45 A sign must be erected in a prominent position in the immediate vicinity of the swimming pool and must:
- be erected in accordance with the provisions relating to instructional posters of the document entitled "Policy Statement No. 9.4.1: Guidelines for the Preparation of Posters on Resuscitation" published by the Resuscitation Council. (A copy may be purchased from Penrith City Council's Civic Centre, 601 High Street, Penrith), and
  - bear a notice that contains the words "YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS SWIMMING POOL", together with details of resuscitation techniques (for adults, children and infants) set out in the relevant provisions of the document entitled "CardioPulmonary Resuscitation" published by the Australian Resuscitation Council. (A copy may be purchased from Penrith City Council's Civic Centre, 601 High Street, Penrith).
- 46 The swimming pool must be registered on the NSW Swimming Pool Register when it is capable of holding water and before the issue of an Occupation Certificate. The swimming pool is to be registered at [www.swimmingpoolregister.nsw.gov.au](http://www.swimmingpoolregister.nsw.gov.au) or in person at Penrith City Council (\$10 fee applies when registering at Council).
- 47 All backwash from the swimming pool shall be directed into the mains sewer.

In areas where sewer is not available, the following requirements apply -

- The swimming pool shall be provided with filtration equipment that does not require a backwash facility (eg. a cartridge filtration system).
- Overspill water shall be diverted away from the swimming pool and not directed onto adjoining properties.
- The frequency of emptying of the swimming pool water shall be minimised. Water resulting from the emptying of the pool shall be collected and disposed of by a private wastewater disposal contractor. Disposal by other means is not permitted.

## Engineering

- 48 All land required for vehicular access within the site is to be stabilised.
- 49 All land required for vehicular access within the site is to be stabilised.
- 50 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 City Works Department on (02) 4732 7777 or visit Penrith City Council's website for more information.

- 51 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 City Works Department on (02) 4732 7777 or visit Penrith City Council's website for more information.

- 52 Prior to the issue of a Construction Certificate a Roads Act application, including payment of application and inspection fees shall be lodged with Penrith City Council, as the Roads Authority, for the following works:
- a) Provision of a vehicular crossing/s.
  - b) Provision of a heavy-duty vehicular crossing/s.
  - c) Provision of path paving for the full property frontage.
  - d) Provision of private drainage connections to Council's road drainage system.
  - e) Removal of redundant vehicular crossings and reinstatement of kerb and gutter.
  - f) Opening the road reserve for the provision of services including stormwater.
  - g) Placing of hoardings, containers, waste skips, etc. in the road reserve.
  - h) Replacement of damaged kerb and gutter for the full property frontage.
  - i) Erection of an awning.
  - j) Utility lead in works.
  - k) (Other)

All works within the road reserve shall be carried out in accordance with Penrith City Council's Design Guidelines and Construction Specification for Civil Works.

Penrith City 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).

- 53 Stormwater drainage from the site shall be discharged to the:

- a) Level spreader system as detailed on plans

The proposed development and stormwater drainage system shall be designed to ensure no adverse impact on adjoining properties by the diversion, damming or concentration of stormwater flows. The final design shall ensure that runoff from the driveway is captured by the stormwater system, and flows do not enter the garage.

The proposed method of stormwater discharge shall be detailed in the Construction Certificate issued by the

Certifying Authority.

54 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.
- c) The minimum clear internal width is 5.6m for double garages.

55 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.

## Landscaping

56 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.

57 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.

58 No trees are to be removed, ringbarked, cut, topped, or lopped or wilfully destroyed without the prior consent or Penrith City Council and in accordance with Council's Tree Preservation Order and Policy.

## Payment of Fees

59 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

- 60 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.

## Unallocated

- 61 No trees or other native vegetation ~~{including shrubs and other understory vegetation}~~ are to be removed, ringbarked, cut, topped, lopped, slashed, or wilfully destroyed ~~{other than those approved}~~ without the prior consent of Penrith City Council and in accordance the Biodiversity Conservation Act 2016 and associated regulations and Councils Tree Preservation Policy.

At any time throughout the construction phase, if there is a risk that additional native vegetation is likely to be impacted by the development, Council must be notified for onward assessment, prior to the impact occurring.

- 62 No fill, machinery, or materials are to be placed or stored within the drip line of any tree that is to be retained.

All trees that are required to be retained as part of the development are to be protected in accordance with the minimum tree protection standards as outlined in Australian Standard AS 4970-2009 'Protection of trees on development sites' and in accordance with the requirements of the Aboricultural impact assessment and tree management plan.

Prior to works commencing ~~{including the removal of native vegetation}~~ the tree protection measures must be inspected and approved by the Project Arborist and the Projects' Ecologist to confirm the trees identified for removal and removal are clearly identified. See also Pre-clearance survey.

- 63 Tree removal and retention is specified within the Aboricultural impact assessment and tree management plan prepared by Redgum Horticultural and dated 17 December 2021 (6770.1).

The recommendations of this report are to be implemented in their entirety, except for the positioning of the replacement plants. While some replacement trees may be positioned for screening purposes, they must not conflict with the APZ requirements and must also address the replanting requirements of the VMP (at present the report references the landscaping plan).

The removal of native vegetation must be conducted in consultation with and under the supervision of the

Projects' Ecologist to provide for the safety of protected native fauna.

See also,

Fauna protection and pre-clearance survey and Fauna protection and tree removal. Specifically noting:

Salvage of habitat features:

1.1 Hollows must be sectionally dismantled from felled hollow-bearing trees and attached to a retained tree according to best practice and in a manner that will not compromise the health and safety of the host tree. This is to be done by a qualified and experienced climbing Arborist under the direction of the projects' Ecologist. Where this cannot occur, the hollow limb will be placed on the ground. {See also VMP}

1.2 Logs should be salvaged from the development area and cut into 3 metre lengths. Logs from the largest diameter cohort are to be used where they can be installed without damaging native vegetation, under the direction of the projects' Ecologist or bush regenerator. {See also VMP}

1.3 Suitable upper tree branches are to be salvaged and evenly distributed across the site and VMP area under the direction of the project' Ecologist or bush regenerator.

1.4 Mulch – the remaining debris from the native vegetation is to be rigorously shaken to remove pollinators, prior to being mulched for use within the natural areas identified within the VMP.

1.5 Exotic vegetation including priority weed species must not be mulched with native vegetation, to prevent the spread of weeds on site.

## Unallocated

64 The Vegetation Management Plan prepared by Narla Environmental and dated January 2022 ~~{Final}~~ is to be implemented in its entirety.

Beyond the initial term of the VMP and the performance indicators being met, the site must be maintained according to the requirements of the 88b and the APZ, in perpetuity.

Should the performance indicators for Zones 2 and 3 not be achieved within the 5 year term, as evaluated in the final reporting requirements and subject to an inspection by Councils' representative, an additional term ~~{of 5 years or longer}~~ will be required to ensure the performance indicators are met.

Where the landholder does not have the ability to achieve the requirements of the VMP, a suitable ~~{qualified and experienced}~~ bushland regenerator must be engaged to undertake ongoing works within zones 2 and 3.

### **The following additional requirements must be adhered to:**

1. Replacement planting is currently specified as 2:1 for the 9 trees approved for removal (please refer to the Aboriginal Impact Assessment and Tree Management Plan). Subject to the constraints of the APZ and the requirement to provide for each trees growth to maturity, it is at the discretion of the Project Ecologist in consultation with the Project Arborist to modify the replacement planting requirements for trees removed to 1:1, with the specified 100% survival rate. The additional replacement planting requirements will be addressed by the midstory, and ground layer plantings indicated within the VMP.
2. Priority weeds are to be removed to an authorised waste transfer facility, and a receipt for disposal provided with the relevant reporting requirements.
3. Topsoil - please consider the additional strategy to import certified topsoil from the same PCT (for use in Zone 2) to help achieve the stated outcomes. This should be considered as a necessary step particularly where there has previously been a high proportion of environmental weeds, or sealed surfaces are being removed.
4. Mulch for use within Zone 2 – must be native, certified weed and pathogen free from the same or similar PCT.
5. Plants must be inspected prior to purchase and on delivery and must be weed and pathogen free.
6. Only use herbicides on site as appropriate to areas adjacent to waterways.
7. Watering as required for establishment and maintenance.
8. All salvaged material from the removal of native vegetation must be reused on site. This will include, but not be limited to, hollows, logs and mulch material. Please also refer to tree removal/salvage information.
9. Council may request a review and if necessary, updating of the plan to reflect current environmental standards and site conditions. Council must be satisfied with any changes prior to the amendment of the plan.

## Unallocated

65 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 natural areas, stormwater system or neighbouring properties.

Regular inspections must be conducted, and adaptive management undertaken should a problem be identified.

All waste materials must be removed from natural areas on a regular basis {no less than weekly}.

66 Prior to works commencing, the initial weed treatment and the pathogen control measures as specified in the Vegetation Management Plan {VMP}, must be implemented to control the spread of priority weeds and pathogens on or off site.

Priority weeds must be disposed of to a licenced approved waste facility, and confirmation of disposal included with the reporting requirements prescribed by the VMP.

## SIGNATURE

Name:	Adem Sertlioglu
Signature:	

For the Development Services Manager