

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA16/1034
Proposed development:	Two Storey Dwelling and Proposed Secondary Dwelling
Property address:	25 Emmaus Road, JORDAN SPRINGS NSW 2747
Property description:	Lot 6064 DP 1211125
Date received:	29 September 2016
Assessing officer	Hannah Gilvear
Zoning:	URBAN ZONE (SREP30 - ST MARYS)
Class of building:	Class 1a
Recommendations:	Approve

Executive Summary

Council is in receipt of a development application for the construction of a two storey dwelling and detached secondary dwelling at 25 Emmaus Road, JORDAN SPRINGS.

The subject site is zoned Urban under Sydney Regional Environmental Plan No 30 - St Marys (SREP 30 - St Marys) and the proposed development falls into the category of "housing " which is a permissible use with the consent of Council.

In accordance with Appendix F4 of the Penrith Development Control Plan 2014 – Notification and Advertising, this application was notified to eight (8) nearby owners and occupiers of adjoining properties who were invited to inspect the proposal from 07 October 2016 to 21 October 2016. Council did not receive any submissions.

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

Site & Surrounds

The subject site is located within Village 6 of the new release area known as Jordan Springs (Western Precinct). The subject site is situated on the northern of Emmaus Road and is approximately 236m south of Ninth Avenue.

The site is orientated in a north-south direction from the rear to the front, is regularly shaped with an area of 528.3m² and the frontage to Emmaus Road is 13.5m. The subject site is identified as high-medium bushfire prone land and is situated directly opposite Wianamatta Regional Park that is heavily vegetated with Shale Plains Woodland.

The site is not affected by any drainage easements or mainstream and local overland flow flooding.

Proposal

The proposed development involves the construction of a two storey dwelling and detached secondary dwelling with associated landscaping and drainage works.

The two storey dwelling comprises of 4 bedrooms, 1 bathroom and powder room, 1 ensuite, kitchen, family and dining area, living area, alfresco, study, laundry, porch, balcony and double garage. The total floor area is 233.97 sqm with 176.26 sqm being designated living space.

The detached secondary dwelling comprises of 2 bedrooms, 1 bathroom, laundry, living and kitchen area. The total floor area is 57.15 sqm.

Plans that apply

- Western Precinct
- Western Precinct
- State Environmental Planning Policy (Affordable Rental Housing) 2009
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River
- Sydney Regional Environmental Plan No.30 - St Marys

Planning Assessment

• Section 79BA - Bushfire prone land assessment

The land in the Western Precinct of the St Marys Release Area is bushfire prone. The original subdivision application (DA14/1550) was accompanied by a Bushfire Protection Assessment prepared by Eco Logical Australia Pty Ltd. The Bushfire Protection Assessment provided a review of the subdivision proposal in relation to the measures contained in the Bushfire Protection Assessment adopted by Council as part of the Western Precinct Plan.

Subsequently the applicant has submitted a BAL Protection Assessment Report for the subject site. An assessment of the development application against the BAL Risk Protection Assessment Report reveals that the construction of the development is to be consistent with the following table:

	Main Dwelling	Secondary Dwelling
Elevation	BAL 19	BAL 19
North	BAL 29	BAL 19
South	BAL 29	BAL 19
East	BAL 29	BAL 19
West	BAL 29	BAL 19
Roof	BAL 29	BAL 19

• Section 79C - Evaluation

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

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

State Environmental Planning Policy (Affordable Rental Housing) 2009

An assessment has been undertaken of the application against relevant criteria with State Environmental Planning Policy (Affordable Rental Housing) 2009 and the application is satisfactory subject to recommended conditions of consent. The key provisions of the SEPP are discussed in turn.

Division 2 Secondary dwellings

19 Definition

The proposal is appropriately defined as a secondary dwelling, as the proposal:

- is established in conjunction with another dwelling,
- is on the same lot of land as the principal dwelling,
- is located within the curtilage, although separate, of the principal dwelling, and
- meets the maximum size of 60m²

20 Land to which Division applies

The site is zoned Urban under Sydney Regional Environmental Plan No. 30 -St Marys. *Housing* is a permissible land use in the zone with Council consent.

21 Development to which Division applies

This division applies to the proposal.

22 Development may be carried out with consent

(2) The development will only result in a principal dwelling and a secondary dwelling being located on the site meeting the requirements of the clause.

(3)(a) Penrith LEP 2010 does not contain a maximum floor area control which renders this control irrelevant to the proposal;

(3)(b) The secondary dwelling has a maximum size of 60m² that does not exceed the 60m² control;

(4)(a) The site area is 528.3m² and exceeds the 450m² control;

(4)(b) The proposal does not involve any additional parking and complies with the provisions of this clause.

24 No subdivision

No subdivision is proposed.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

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

Sydney Regional Environmental Plan No.30 - St Marys

As assessment has been undertaken of the application against relevant criteria with Sydney Regional Environmental Plan No 30—St Marys and the application is satisfactory.

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

Western Precinct

Provision	Compliance
Western Precinct Plan	Complies - see Appendix - Development Control Plan Compliance

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

Subject to the imposition of conditions of consent, Council's Building Surveyor has raised no objection to the proposed development.

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

(i) Context and Setting (environmental impacts and impacts on built environment)

The proposal is consistent with the bulk and scale of other residential dwellings in the locality and appropriate finishes and design features are proposed. The proposed dwellings are sited appropriately so as not to impact significantly on the streetscape or amenity of the area. Low level landscaping is proposed within the front setback to ensure the desired character of the locality is achieved.

There is no removal of significant vegetation from the site as it is a cleared site awaiting development within a new subdivision estate. The visual impact of the proposed dwellings on the surrounding landscape is minimal given the siting and scale of the proposed dwellings and its location within a new release area. The proposed secondary dwelling will not generate any perceptible increase in traffic volume and therefore would have minimal impact on the local road system.

(ii) Access and transport

Traffic impacts are unlikely from the two bedroom granny flat, which is ancillary to the main dwelling. The development will benefit from existing access provisions and the development will have no impact upon the existing vehicle and traffic movements in the locality.

(iii) Heritage

The property is not subject to any Heritage Order or identified as a heritage item under a planning instrument.

(iv) Soil

The proposal includes, and will be conditioned to include, suitable measures to minimise environmental impacts in terms of providing for the adoption of appropriate erosion and sediment control measures expected during the construction of the proposed dwellings as well as the appropriate disposal of any waste generated as a result.

The proposed development will have minimal impact on soil erosion and sedimentation.

(v) Natural and Technological Hazards

The development is not subject to flooding, subsidence or slip.

(vi) Site Design

The proposed development is sensitive to environmental conditions and site attributes.

The proposed development safeguards the health and safety of the occupants

Accordingly, the proposed dwelling and granny flat is in keeping with the residential nature of the area and unlikely to result in adverse impacts.

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

The site is suitable for the proposed development for the following reasons:

- The site is zoned Urban to accommodate the proposed dwelling house;
- The site is appropriately located within the Jordan Springs release area and is suitable for residential development;
- The proposed development generally conforms to and supports the St Marys Western Precinct Plan and Development Control Strategy; and
- The site is adequately serviced by roads, utilities and stormwater infrastructure through various approval previously granted by Council.

Section 79C(1)(d) Any Submissions

Community Consultation

In accordance with Appendix F4 of the Penrith Development Control Plan 2014 – Notification and Advertising, this application was notified to eight (8) nearby owners and occupiers of adjoining properties who were invited to inspect the proposal from 07 October 2016 to 21 October 2016. Council did not receive any submissions.

Referrals

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

Referral Body	Comments Received
Building Surveyor	No objections - subject to conditions

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

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

Section 94 - Developer Contributions Plans

The following Section 94 plans apply to the site:

- Section 94 - District Open Space Facilities
- Section 94 - Cultural Facilities

The following Section 94 calculations apply to the proposed development:

S.94 Contribution Plan	Contribution Rate * Calculation Rate	Total
District Open Space	<i>1.5 * \$150.00</i>	\$ 225.00
Cultural Facilities	<i>1.5 * \$1,869.00</i>	\$ 2,803.00
	Net Total	\$ 3,028.00

Conclusion

In assessing this application against the current relevant instruments being Environmental Planning and Assessment Act 1979, Sydney Regional Environmental Plan No. 20 - Hawkesbury Nepean River and Sydney Regional Environmental Plan No.30 - St Marys, with appropriate conditions, the proposal satisfies the requirements.

With the recommended conditions of consent, it is considered unlikely to have a negative impact on the surrounding properties and environment, the site is suitable for the development proposed and is considered to complement the existing surrounding developments.

Recommendation

1. That DA16/1034 for the construction of a two storey dwelling and detached secondary dwelling at Lot 6064 DP 1211125 , No. 25 Emmaus Road, Jordan Springs be approved subject to the attached conditions (Development Assessment Report Part B).

CONDITIONS

General

1 A001

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

Plan	Project/Sheet No.	Drawn by:	Dated:
Cover sheet	Sheet 1 – C1600569/ Rev B	Elderton Homes	31/8/16
Site Plan	Sheet 2 – C1600569/ Rev B	Elderton Homes	31/8/16
Ground Floor Plan	Sheet 3 – C1600569/ Rev B	Elderton Homes	31/8/16
First Floor Plan	Sheet 4 – C1600569/ Rev B	Elderton Homes	31/8/16
Elevations	Sheet 5 – C1600569/ Rev B	Elderton Homes	31/8/16
Elevations	Sheet 6 – C1600569/ Rev B	Elderton Homes	31/8/16
Secondary Dwelling	Sheet 7 – C1600569/ Rev B	Elderton Homes	31/8/16
Sections	Sheet 8 – C1600569/ Rev B	Elderton Homes	31/8/16
Electrical Layout - Ground	Sheet 9 – C1600569/ Rev B	Elderton Homes	31/8/16
Electrical Layout – First	Sheet 10 – C1600569/ Rev B	Elderton Homes	31/8/16
Wet Area Details	Sheet 11 – C1600569/ Rev B	Elderton Homes	31/8/16
Wet Area Details	Sheet 12 – C1600569/ Rev B	Elderton Homes	31/8/16
Slab Plan	Sheet 13 – C1600569/ Rev B	Elderton Homes	31/8/16
Stormwater Diagram	Sheet 2.1 – C1600569/ Rev B	Elderton Homes	31/8/16
Site Analysis and Construction Management Plan	Sheet 2.2 – C1600569/ Rev B	Elderton Homes	31/8/16
Landscape Plan	Sheet 2.4 – C1600569/ Rev B	Elderton Homes	31/8/16
External Colour Schedule	C1600569	Elderton Homes	01/9/16

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

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

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

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

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

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

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

5 [A041 - CONSTRUCTION IN BUSHFIRE AREAS \(AMENDED\)](#)

The construction of the development is to be consistent with the following table:

	Main Dwelling	Secondary Dwelling
Elevation	BAL 19	BAL 19
North	BAL 29	BAL 19
South	BAL 29	BAL 19
East	BAL 29	BAL 19
West	BAL 29	BAL 19
Roof	BAL 29	BAL 19

The proposed private dwelling and secondary dwelling shall be constructed in accordance with the provisions of the "Planning for Bushfire Protection" December 2006, under AS3959-2009 "Construction of buildings in bushfire-prone area".

6 [A042 - ASSET PROTECTION ZONES IN BUSHFIRE AREAS](#)

At the commencement of building works and in perpetuity **the entire property up to the site boundaries shall be managed as an inner protection area (IPA)** as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

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

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

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

All bathrooms and ensuites on first floor elevations are to have obscure glazed windows.

9 [A Special 01 - Total Floor Area of Secondary Dwelling](#)

The total floor area of the secondary dwelling is not to exceed 60m².

10 [A Special 02 - Masonry Retaining Wall Requirement](#)

Any retaining walls proposed forward of the building line or visible from the street are to be of masonry construction.

Environmental Matters

11 **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,
- clearly indicate the legal property description of the fill material source site,
- 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.

12 **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.

13 **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.

BCA Issues

14 **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

15 [F006 - Water tank & nuisance](#)

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

Utility Services

16 [G002 - Section 73 \(not for](#)

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

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

17 [G004 - Integral Energy](#)

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

In the event that a pad mounted substation is necessary to service the development, Penrith City Council shall be consulted over the proposed location of the substation before the Construction Certificate for the development is issued as the location of the substation may impact on other services and building, driveway or landscape design already approved by Council.

18 [G005 - Rainwater tank- Plumbing](#)

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

19 [G006 -](#)

Prior to the issue of a Construction Certificate, the Principal Certifying Authority shall be satisfied that telecommunications infrastructure may be installed to service the premises which complies with the following:

- The requirements of the Telecommunications Act 1997:
- For a fibre ready facility, the NBN Co’s standard specifications current at the time of installation; and
- For a line that is to connect a lot to telecommunications infrastructure external to the premises, the line shall be located underground.

Unless otherwise stipulated by telecommunications legislation at the time of construction, the development must be provided with all necessary pits and pipes, and conduits to accommodate the future connection of optic fibre technology telecommunications.

Prior to the issue of an Occupation Certificate, written certification from all relevant service providers that the telecommunications infrastructure is installed in accordance with the requirements above and the applicable legislation at the time of construction, must be submitted to the Principal Certifying Authority.

Construction

20 H001 - Stamped plans and erection of site notice

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

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

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

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

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

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

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

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

22 H022 - Survey

The building shall be set out by a registered surveyor. A Survey Certificate shall be undertaken and submitted to the Principal Certifying Authority when the building is constructed.

23 H033 – Clothes line

Clothes drying facilities are to be positioned and screened from public view.

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

The rainwater tank(s) is to be:

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

Additionally, the following are to be provided:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 [H Special 01 - Dust](#)

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

30 [H Special 02 -Mud/Soil](#)

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

Engineering

31 [K101 - Works at no cost to Council](#)

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

32 [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 the issue of any Construction Certificate. 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.

33 **K202 - S138 Roads Act – Works and Structures - Minor Works in the public road DRIVEWAYS ROAD OPENINGS**

Prior to the issue of any Construction Certificate, a Section 138 Roads Act applications, including payment of application and inspection fees, shall be lodged 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) Concrete footpaths and or cycleways
- c) Road opening for utilities and stormwater (including stormwater connection to Penrith City Council roads and other Penrith City Council owned drainage)
- d) Road occupancy or road closures
- e) The placement of hoardings, structures, containers, waster skips, signs etc. in the road reserve
- f) 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 City Works Department on (02) 4732 7777 or visit Penrith City Council's website for more information.

Note:

- a) Where Penrith City Council is the Certifying Authority for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
- b) Separate approvals may also be required from the Roads and Maritime Services for classified roads.
- c) All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate or Subdivision Certificate as applicable.
- d) On completion of any awning over the road reserve, a certificate from a practising structural engineer certifying the structural adequacy of the awning is to be submitted to Council before Council will inspect the works and issue its final approval under the Roads Act

34 **K209 - Stormwater Discharge – Minor Development**

Stormwater drainage from the site shall be discharged to the:

- a) Street Drainage System

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 proposed method of stormwater discharge shall be detailed in the Construction Certificate issued by the Certifying Authority.

35 **K212 - No loading on easements**

Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that the foundations of proposed structures adjoining the drainage and/ or services easement have been designed clear of the zone of influence.

36 **K301 - Sediment & Erosion Control**

Prior to commencement of any works associated with the development, sediment and erosion control measures shall be installed in accordance with the approved Construction Certificate and to ensure compliance with the Protection of the Environment Operations Act 1997 and Managing Urban Stormwater series from the Office of Environment and Heritage.

The erosion and sediment control measures shall remain in place and be maintained until all disturbed areas have been rehabilitated and stabilised.

37 [K403 - Major Filling/ Earthworks](#)

All earthworks shall be undertaken in accordance with AS 3798 and Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments and Engineering Construction Specification for Civil Works.

The level of testing shall be determined by the Geotechnical Testing Authority/ Superintendent in consultation with the Principal Certifying Authority.

38 [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.

39 [K501 - Penrith City Council clearance – Roads Act/ Local Government Act](#)

Prior to the issue of any Occupation Certificate, the Principal Certifying Authority shall ensure that all works associated with a S138 Roads Act approval or S68 Local Government Act approval have been inspected and signed off by Penrith City Council.

Landscaping

40 [L001 - General](#)

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

Landscaping shall be maintained:

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

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

41 [L002 - Landscape construction](#)

The approved landscaping for the site must be constructed by an appropriately qualified landscape person assuitable to construct landscape works.

42 [L006 - Aust Standard](#)

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

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

43 [L008 - Tree PreservationOrder](#)

No trees are to be removed, ringbarked, cut, topped or lopped or wilfully destroyed (other than those within 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.

44 [L Special \(BLANK\)](#)

In the event that the secondary dwelling is not to be occupied by a relative of the primary dwelling, a 1.8m high fence is to be erected to ensure private open space is provided for the secondary dwelling (separate from the primary dwelling).

Development Contributions

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

This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan(s) for **Cultural Facilities**. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$225.00** is to be paid to Council **prior to a Construction Certificate being issued for this development** (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The S94 invoice accompanying this consent should accompany the contribution payment.

The Section 94 Contributions Plan for Cultural Facilities may be inspected at Council's Civic Centre, 601 High Street, Penrith.

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

This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan(s) for **District Open Space**. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$2,803.00** is to be paid to Council **prior to a Construction Certificate being issued for this development** (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The S94 invoice accompanying this consent should accompany the contribution payment.

The Section 94 Contributions Plan for Cultural Facilities may be inspected at Council's Civic Centre, 601 High Street, Penrith.

Certification

47 **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.

Appendix - Development Control Plan Compliance

Western Precinct

Development Control Strategy – Western Sydney St Marys				
Development Requirements	Objectives		Proposed	Complies
2.3.1 General Controls				
Lot size, frontage & depth	270- 500sqm, 9-20m, 25-30m	501-999sqm, 16-25m, 25-40m	The subject site has an area of 528.3 sqm The subject site is regularly shaped with a 13.5 frontage to Emmaus Road and the depth is approximately 38m.	Yes
Primary Setbacks	Building – 4.5m Garage Frontage – 5.5 Articulation – 3.5m		Building setback of 7.6m provided. Garage setback of 10.6m provided Articulation setback of 9.2m provided	Yes
Secondary Setbacks	Building – 1.5m Garage Frontage – 2.5 Articulation – 1m		N/A	N/A
Rear Setback Garage rear loaded	3 metres 0.9		Rear setback of 3.4m has been provided.	Yes
Side setback Zero lot line	900mm 13m (270-500sqm blocks)		A minimum side setback of 1100mm has been provided.	Yes
Private open space	Minimum 20% and width of 3m		Both the secondary dwelling and dwelling house have designated areas for private open space with a minimum width of 3m. In total 282sqm of land has been allocated for POS which is approximately 53%.	Yes
Height	Maximum 2 storey dwelling		Two storey dwelling proposed.	Yes

Parking Spaces	<p>1-2 spaces (270-500sqm blocks)</p> <p>2 spaces (501-999sqm)</p>	<p>2 parking spaces have been provided for the proposed two storey dwelling in the form of a double garage. The secondary dwelling does not require a parking space. Additional car parking spaces can be provided in a stacked parking arrangement.</p>	Yes
Landscaping	<p>Min 1 tree within front setback</p> <p>Landscape plan lodged</p>	<p>Landscape plan has been provided as part of the application. The Landscape Plan shows that a mix of shrubs has been provided and two streets within the front setback.</p>	Yes
Visual and Acoustic Privacy	<p>Additional privacy provided for overlooking habitable & POS areas.</p> <ul style="list-style-type: none"> - Offsetting adjacent windows - Fixed window screen - Sill heights 1.5m above floor level - Obscure glazing 	<p>Two storey dwelling proposed, based on the plans submitted the visual and acoustic privacy to neighbouring properties and secondary dwelling will be minimal.</p> <p>The elevations show that the bathroom and stairwell windows on the first floor in the east and west elevations use tough obscure glazed windows. With the exception of the Bedroom 3 window which has a high sill height. It is noted this is a low use area.</p> <p>All windows in the south elevation are of awning style and offer passive visual surveillance to the street.</p> <p>The windows in the north elevation that overlook the secondary dwelling are overlooking into the south elevation of the secondary dwelling which has a blank external wall with the exception of a bathroom window which has a high sill height and is a low use area.</p>	Yes
Fences	<p>Front fences and walls max 1.5m</p> <p>Side and back fence max 1.8m</p>	<p>1.8m side and rear boundary fence is proposed.</p>	Yes

Garages	<p>Lots less than 12m wide – garage must not take up 50% of frontage</p> <p>2 storey dwelling – room with window or balconies built above garages</p> <p>Max 2 car garage</p>	<p>Lot is greater than 12m wide.</p> <p>Balcony has been proposed over a garden bed and will be constructed over two timber beams.</p> <p>Max 2 car garage provided.</p>	Yes
Solar Access	<p>POS receive at least 3hrs between 9am-3pm.</p>	<p>The proposed dwelling has an north south orientation. The POS is positioned towards the rear of the site which is a north-eastern orientation. Based on the plans submitted the both the proposed dwelling and secondary dwelling receive an adequate amount of solar access.</p>	Yes

The proposed dwelling has been assessed against the Western Precinct Development Control Strategy. With the conditions of consent imposed, it is anticipated that the proposed development meets the objectives of the zone and DCS requirements.