

PENRITH CITY COUNCIL

FAST LIGHT ASSESSMENT REPORT

Application number:	DA18/0672
Proposed development:	Dwelling, Shed, Pool, Driveway and On Site Waste Water Irrigation System
Property address:	168 Church Lane, CASTLEREAGH NSW 2749
Property description:	Lot 6 DP 1209152
Date received:	10 July 2018
Assessing officer	Matthew Warbrick
Zoning:	RURAL 1(A2) (IDO 93)SEPP Penrith Lakes Scheme (Residential Zone)
Class of building:	Class 1a , Class 10a
Recommendation:	Approve

Executive Summary

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

Site & Surrounds

The subject site is situated on the southern side of Church Lane. It is 2.085m² in area and is oriented in a northern direction and has fall to the rear which backs onto Castlereagh Road.

An inspection of the site was undertaken on 24th July 2018 and the site is currently vacant.

The surrounding area is characterised by large lot rural/residential development.

Proposal

The proposed development involves:

- Construction of a two storey dwelling and basement garage and detached shed including parking, landscaping and associated drainage works.

Plans that apply

SEPP Penrith Lakes Scheme (Residential Zone)
Penrith LEP 2010
Penrith IDO No. 93
SREP No 9 Extractive Industry (No 2 - 1995)
SREP No 20 Hawkesbury Nepean River (No 2 - 1997)
Penrith DCP 2014

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

The development has been assessed in accordance with the matters for consideration under Section 79BA (Consultation and development consent—certain bush fire prone land) of the Environmental Planning and Assessment Act 1979, and having regard to those matters, the following points are made:

- The site is identified as being entirely bushfire prone land.
- An inspection of the subject site and surrounds was carried out on 24th July 2018.
- A report prepared by Control Line Consulting accompanied the application and was relied upon (REF No 16.12.307) in the assessment.
- An assessment of the site was undertaken with consideration of the Consultant's Report.
- The proposed development is subject to BAL-29 construction as recommended in the Consultant's Report and will be conditioned accordingly.

• **Section 4.15 - Evaluation**

The development has been assessed in accordance with the matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979.

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

Is the development permissible in the zone? **Complies**

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

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

Is the development consistent with any draft planning instruments relevant to this proposal **N/A**

Section 79C (1)(a)(iii) Any development control plan

Is the development consistent with the provisions of any development control plan relevant to this proposal? **Complies - See discussion**

Section 79C (1)(a)(iv) Any applicable regulations

Is the development consistent the provisions of any regulations relevant to this proposal? **Complies - See discussion**

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

Context and setting

Is the development consistent with the bulk, scale colour and design of other development in the locality? **Complies - See discussion**

Will the development have only a minor impact of the amenity of the area and the streetscape? **Complies - See discussion**

Is the development compatible with surrounding and adjacent land uses **Complies**

Will the development have no or minimal impact on the amenity of the area in terms of:

Sunlight (overshadowing): **Complies - See discussion**

Visual and acoustic privacy: **Complies - See discussion**

Views or vista: **Complies**

Access and Transport

Will the development have no or minimal impact on the local road system **Complies**

Is the existing and any proposed access arrangements and car parking on site adequate for the development? **Complies**

Heritage

The property is not subject to any heritage order or is identified as heritage under a planning instrument. **Complies - See discussion**

Soil

The development will have minimal impact on soil erosion and sedimentation **Complies**

Natural and Technological Hazards

The development is not subject to flooding, subsidence or slip **Complies - See discussion**

Land is not considered to be contaminated: **Complies**

Bushfire requirements provided for the development **Complies - See discussion**

Acoustic requirements provided for the development **Complies**

Site design

The development is sensitive to environmental conditions and site attributes. **Complies - See discussion**

Does the development safe guard the health and safety of the occupants **Complies**

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

Was the site inspected?	Yes
Does the proposal fit locality?	Yes
Are the site attributes conducive to development?	Yes
Will the proposal have minimal social and economic impacts on the locality?	Yes
Has any applicable 88b instrument been considered?	Yes
Does the development propose the removal of trees?	No
Have the plans been checked by any relevant developer groups?	N/A
Has a BASIX certificate been provided?	Yes

Section 79C (1)(d) Any submissions made in accordance with the EPA Act and Regulations?

Was the application required to be publicly notified?	Yes
Were any submissions received during the public notification period?	Yes

The application was notified to adjoining property owners and Council was in receipt of one (1) submission. The adjoining property owner's objections are summarised as follows:

- Building Envelope - Concerns were raised regarding the position of the Building Envelope (BE) on the submitted architectural plans.
 - Amended plans were received slightly repositioning the dwelling to incorporate the BE more appropriately as well as minimising the overall size of the detached shed. A review of the amended BE was undertaken and it was considered to be consistent with the objectives of Development Control Plan (DCP) 2014, the Deposited Plan (DP) and surrounding locality, however the orientation of the dwelling was considered to be an issue as discussed below.
- Alignment of the proposed dwelling - Concerns were raised regarding the orientation of the proposed dwelling.
 - The applicant has stated that the existing contours of the site limit the opportunity to strictly comply with the DCP in regards to cut/fill on the property. This is particularly so if the dwelling was to be orientated to be exactly parallel with the front boundary adjoining Church Lane.
 - The applicant also stated that the orientation of the dwelling would have a reduced impact upon the streetscape minimising its apparent bulk when viewed from the street, particularly when approaching the site from the south east.

as discussed above, a condition will be included in the Development Consent requiring the dwelling to be reorientated 10 degrees to the south west in order to minimise potential privacy impacts on the adjoining property, and to be more aligned with the original BE.
- Fill Levels - Concerns were raised regarding the amount of fill proposed on the property and that the levels would be inconsistent with surrounding properties in the locality.
 - The proposed cut and fill on the property is considered to be consistent with the surrounding locality having minimal adverse impacts upon adjoining properties, the surrounding environment and the streetscape in this instance.

The complainant will be notified of Council's determination in writing, including the above responses to their initial concerns.

Section 79C (1)(e)Public Interest

The application will have minimal impacts on public interest

Complies

Conclusion/Summary

In assessing this application against the relevant environmental planning policies, the proposal satisfies the aims, objectives and provisions of these policies.

The proposed design complies with key development standards and is in the public interest.

The site is suitable for the proposed development, the proposal is in the public interest, and there is unlikely to be negative impacts arising from the proposed development.

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

Recommendation

1. That DA18/0672 for the construction of a new dwelling and shed at Lot 6 DP1209152 No. 168 Church Lane, Castlereagh be approved subject to the attached conditions (Development Assessment Report Part B).
2. That variation to the Restriction to User numbered 2 (the Building Envelope) under the 88B Instruments in The Deposited Plan be granted (under delegation) to allow the development to be carried out in accordance with the approved plans and attached conditions.

CONDITIONS

General

1 A001

The development must be implemented substantially in accordance with the plans listed in the table below, the Basix Certificate 942722S_02, the application form 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 Type	Job No	Sheet No	Revision	Drawn By	Date
Site	2919	1	C	F. Kosztelnik	22.11.2018
Ground Floor		2	C	F. Kosztelnik	02.10.2018
First Floor		3	C	F. Kosztelnik	02.10.2018
Sub Floor		4	C	F. Kosztelnik	02.10.2018
Elevation/Section		5	C	F. Kosztelnik	02.10.2018
Shed details		6	C	F. Kosztelnik	02.10.2018
Landscape	-	1 of 1	-	Hawkesbury Landscape Design	26.11.2018

2 A008 - Works to BCA requirements (Always apply to building works)

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

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

3 A019 - OCCUPATION CERTIFICATE (ALWAYS APPLY)

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

4 A028 - Rural Fencing

Fencing is to be of an open rural nature consistent in style with that normally found in rural areas. Fences must not be higher than 1.8 metres and be constructed using post and wire or post and rail. Masonry materials can be used within three metres either side of the entrance to the property from the primary road. When used, electric fencing must be constructed in accordance with AS/NZS 3014:2003.

5 A046 - Obtain Construction Certificate before commencement of works

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

6 A - Amended Plans

Prior to the issue of a Construction Certificate, plans are to be submitted to the Principal Certifying Authority detailing the following amendments:

1. The dwelling is to be reorientated 10° to align with the amended building line as marked in bold red on the stamped approved Site Plan. The front setbacks of the amended building line are to align parallel with the side boundaries as marked in red on the stamped approved Site Plan.

2. A fixed, privacy screen is to be installed along the entire eastern elevation of the rear first floor balcony. The privacy screen is to be either a solid screen with no openings, or have upward facing louvres so as to not overlook the adjoining property to the east.

3. A minimum of six (6) endemic species of trees are to be planted along the south eastern side boundary as marked in red on the stamped approved Landscape Plan. These endemic trees are to have a minimum mature growth height of 8 metres and must be selected from Penrith Council's Native Plant Species Fact Sheet available on Council's website.

7 [A - Amendment to Restriction to User terms in Deposited Plan](#)

Prior to the issue of a Construction Certificate, the Building Envelope (BE) referred to in the terms for the Restriction to User numbered 2 in the Section 88B Instrument of the Conveyancing Act 1919 applying to Lot 6 in DP 1209152 (known as No. 168 Church Lane Castlereagh) is to be amended and endorsed by Council.

The amended 88B Instrument and corresponding plan is to reflect the size, location and reorientation of the dwelling and shed as marked in red and detailed on the stamped approved Site Plan (Job No2919, Sheet 1 Issue C, dated 22-11-2018).

Prior to endorsement of the revised 88B instrument and corresponding plan, a fee is to be paid to Council in accordance with Council's adopted Schedule of Fees and Charges. There may be other fees not identified including but not limited to surveyors/conveyancer fees, lodgement fees with NSW Land Registry Services associated with this change. All works required to effect the change to the BE shall be undertaken at no cost to Penrith City Council.

Prior to the issue of an Occupation Certificate, proof of the Registration at NSW Land Registry Services for the amendment of the 88B Instrument and corresponding (BE) shall be submitted to the Principal Certifying Authority (PCA) and to Penrith City Council if Council is not the PCA.

8 [A special \(A041\) - CONSTRUCTION IN BUSHFIRE AREAS](#)

The dwelling shall be constructed in accordance with the provisions of the "Planning for Bushfire Protection" December 2006 including "Addendum: Appendix 3" and "AS3959 - 2009 'Construction in Bushfire Prone Areas'". In this regard the following applies:

- Gutter and Valley Guard is to be installed in the development in accordance with Clause 4.3.5 of "Planning for Bushfire Protection" 2006; and
- All development is required to comply with "Addendum: Appendix 3" of "Planning for Bushfire Protection" 2006 particularly Clause A3.7; and
- The development is to be constructed to BAL 29 construction under "AS3959-2009 'Construction of buildings in bushfire-prone areas'".

The following conditions also apply to the property:

Asset Protection Zones

At the commencement of building works and in perpetuity the property around the building shall be managed as follows:

- North for a distance of 15 metres when measured from the dwelling as an Inner Protection Area (IPA).
- East and West up to the property boundary as an IPA.
- South for a distance of 53 metres when measured from the dwelling as an IPA.

Requirements for an Inner Protection Area are outlined within section 4.1.3 and appendix 5 of 'Planning for Bush Fire Protection 2006' (PBP) and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

Water and Utilities

- Water, electricity and gas shall comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.
- A 20,000 litre water supply shall be provided for fire fighting purposes together with a minimum 3kW (5hp) petrol or diesel powered pump and a 19mm (internal diameter) fire hose capable of reaching all parts of the building.

Design and Construction

- New construction shall comply with section 3 and section 7 (BAL 29) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' or NASH Standard (1.7.14 updated) 'National Standard Steel Framed Construction in Bushfire Areas – 2014' as appropriate and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection' 2006'.
- New construction for the shed shall be undertaken using non-combustible materials.
- Any new fencing shall comply with New South Wales Rural Fire Service 'Fast Fact 2/06' for Fences and Gates in Bush Fire Prone Areas.

Landscaping

- Landscaping to the site within the recommended Asset Protection Zone is to be managed in accordance with Appendix 5 of 'Planning for Bush Fire Protection 2006'.

Demolition

9 B004 - Dust

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

10 B005 - Mud/Soil

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

Heritage/Archaeological relics

11 C003 - Uncovering relics

Works are to be carried out in accordance with the letter dated 19 December 2013 from Muru Mittaggar regarding the proposed subdivision. In recognition of the change to the Building Envelope, APZs and ancillary works required, if any archaeological relics are uncovered during the course of the works, then no further work shall be undertaken until further directed by Muru Mittaggar, Penrith City Council or the NSW Heritage Office.

The applicant is advised that depending on the possible significance of the relics, an archaeological assessment and an Excavation Permit as required under the Heritage Act, 1977 may be required before any further work can be recommenced in that area of the site.

Environmental Matters

12 D001 - Implement approved sediment& erosion control measures

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

(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.

13 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.

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

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

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

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

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

15 **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.

16 **D014 - Plant and equipment noise**

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

BCA Issues

17 **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

18 **F006 - Water tank & nuisance**

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

Construction

19 H001 - Stamped plans and erection of site notice

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

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

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

Signage but no more than 2 signs stating the above details 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.

20 H002 - All forms of construction

Prior to the commencement of construction works:

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

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

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

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

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

21 H022 - Survey

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

22 H030 – Roof finishes (rural property)

The roof of the structure is to be a dull, non-reflective surface and colour. The external finishes of the dwelling are to be in accordance with the approved colour schedule and compliment and blend with the established streetscape and amenity of the area.

23 **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.

24 **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.

25 **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.

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

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

27 [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.

Swimming Pools

28 [J002 - Fencing when water in pool](#)

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.

29 [J005 - Doors and windows](#)

The following means of access to the swimming pool shall be restricted to:

- (a) Each doorway giving access to the swimming pool shall comply with Section 2.7 'Child Resistant Doorsets' of AS1926.1 - 2016; and
- (b) Each window giving access to the swimming pool shall comply with Section 2.6 'Child Resistant Openable Portion of Window' of AS1926.1 - 2016.

30 [J010 - Pool board/ sign \(add J009\)](#)

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).

31 [J011 - NSW Swimming Pool Register](#)

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 or in person at Penrith City Council (\$10 fee applies when registering at Council).

32 [J012 - Backwash and Overflow](#)

All backwash from the swimming pool shall be managed in the following way -

- 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

33 [K026 - Stabilised access](#)

All land required for vehicular access within the site is to be stabilised.

34 **K201 - Infrastructure Bond**

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

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

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

35 **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, waste 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.

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

Stormwater drainage from the site shall be discharged to the:

- a) Street drainage system or level spreader 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.

Landscaping

37 [L001 - General landscaping](#)

Prior to the issue of a occupation certificate, 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.

38 [L007 - Tree protectionmeasures–no TMPwith DA](#)

No fill, machinery, or materials are to be placed or stored within the drip line of any tree that is to be retained. Tree protection measures are to be implemented as outlined in the Australian Standard AS 4970-2009 'Protection of trees on development sites'

39 [L008 - Tree PreservationOrder](#)

No native trees or other vegetation (including shrubs and other understory vegetation) are to be removed, ringbarked, cut, topped, lopped, slashed or wilfully destroyed without the prior consent of Penrith City Council and in accordance with Council's Tree Preservation Order and Policy.

Payment of Fees

40 [P002 - Fees associatedwith Council land \(Applies to all works & add K019\)](#)

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

Certification

41 [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.

42 [Q05F - Occupation Certificate for Class10](#)

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

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

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

Operation of OSSM

43 R101 - Operational Approval prior to use

The on-site sewage management (OSSM) system and effluent management area shall be installed and operated in accordance with the:

- “Environmental and Health Protection Guidelines On Site Sewage Management for Single Households”
- Australian Standards AS1547:2012,
- Council’s On-Site Sewage Management and Greywater Reuse Policy,
- current (at the time of installation) NSW Health Accreditation documentation,
- the Wastewater Report (prepared Envirotech, dated 14 June 2018, Ref:18-6283-A), and
- the Effluent Management Area Plan (prepared by Envirotech, dated 14 June 2018, Ref:18-6283-A),
- And, the conditions of this consent.

Prior to the issue of the ‘Approval to Operate’, a Commissioning Certificate for the OSSM system shall be provided to Penrith City Council for approval. This Certificate shall certify that the aerated wastewater treatment system (AWTS) has been installed and is operating in accordance with the conditions of its NSW Health accreditation documentation.

44 R102 - OSSM System Type and Disposal Area (all systems)

All wastewater generated on the site is to be diverted to a AWTS and be disposed of by way of surface irrigation in the approved effluent management area. The effluent management area is to be located in accordance with the stamped approved Effluent Management Area Plan (prepared by Envirotech, dated 14 June 2018, Ref:18-6283-A) and have a minimum area of 1223m².

The system and effluent management area are to be installed and managed in accordance with the:

- “Environmental and Health Protection Guidelines On Site Sewage Management for Single Households”
- Australian Standards AS 1547:2012,
- Council’s On-Site Sewage Management and Greywater Reuse Policy,
- the Wastewater Report (prepared by Envirotech, dated 14 June 2018, Ref:18-6283-A), and
- the Effluent Management Area Plan (prepared by Envirotech, dated 14 June 2018, Ref:18-6283-A)

The system is to be utilised for a 5 bedroom dwelling or daily wastewater load of 1050 litres in accordance with Wastewater Report (prepared by Envirotech, dated 14 June 2018, Ref:18-6283-A). Any dwelling approval on the site greater than this may require a new wastewater report for Council’s consideration.

45 R103 - Council inspections for Installation

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

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

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

46 R104 - No alterations without approval

The septic tank, drainage and irrigation lines and effluent management area shall not be altered without the prior approval of Council. In addition, the septic tank shall not be buried or covered.

47 R105 - Plumbing Code of Australia

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

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

The design of the irrigation system for the effluent management area is to be such that:

- The distribution line is to be buried from the tank to the designated disposal area.
- The moveable irrigation line and sprinklers (including the plume from the sprinklers) situated within the disposal area can not exceed the designated boundaries of the disposal area.
- The treated wastewater can be evenly irrigated across the entire designated disposal area, **avoiding the drip line of native trees.**
- Sited so as not to contaminate the natural watercourse that traverses the subject property.

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

All irrigation pipework and fittings shall comply with AS2698 "Plastic Pipes and Fittings for Irrigation and Rural Applications". In this regard:

- the irrigation system is not to be connected to/not capable of connection to the mains water supply,
- standard household fittings, soaker hoses, garden sprinklers and standard water hose fittings are not to be used,

Surface -

- all distribution lines of the irrigation system to any standpipe shall be buried to a minimum 100mm below finished surface level,
- spray irrigation equipment connected to distribution lines shall be fixed, and
- spray irrigation shall only use low pressure, low volume spray heads which are not capable of producing aerosols. The spray shall have a maximum plume height 400mm and a plume radius of not more than 2 metres.

50 [R109 - No effluent runoff](#)

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

51 [R110 - EMA Signage](#)

A minimum of two signs shall be erected within the effluent management area. These signs are to state "RECLAIMED EFFLUENT - NOT FOR DRINKING - AVOID CONTACT". The signage shall be maintained for the term of the development.

52 R111 - AWTS Servicing

The owner/occupier shall enter into an annual service contract with the manufacturer, distributor or other person authorised (in writing) by Penrith City Council to service the aerated septic tank(s) every three (3) months from the date of commissioning in the following manner:

i. A three monthly service shall include a check on all mechanical, electrical and functioning parts of the aerated system including:

- the chlorinator,
- replenishment of the disinfectant,
- the UV disinfection unit,
- all pumps and switches,
- the air blower, fan or air venturi,
- the alarm system,
- the effluent disposal area and irrigation spray outlets / sub-surface irrigation lines and filters,
- the slime growth on the filter media, and
- the operation of the sludge returns system.

ii. The following field tests are to be carried out at every service:

- free residual chlorine using DPD colorimetric or photometric method,
- pH from a sample taken from the irrigation chamber,
- dissolved oxygen from a sample taken from the final aeration or stilling chamber (although recommended) is optional.

iii. On the yearly anniversary date of the commissioning of the system, an annual service of the system shall also be carried out which includes a check on the sludge accumulation in the septic tank (primary treatment tank) and the clarifier, where appropriate.

iv. For systems which utilise the sewage treatment principle of activated sludge or contact aeration, a sludge bulking test, known as a SV30 Test, shall also be conducted on an annual basis. This test is to determine whether the accumulated sludge is bulking, indicating that the aeration compartment(s) will require desludging.

v. On completion of each service, a service report sheet is to specify all service items and test results, the amount of chlorine compound provided, parts replaced (if applicable), the date the service was conducted and the technician's name. A copy of the service report is to be:

- given to the property owner and another to the applicant (if not the same), and
- forwarded to Penrith City Council.

Each service agent shall provide a registered business office which, if unattended during business hours, is provided with a telephone answering device or service. A means of reporting a malfunction or breakdown outside normal business hours shall be available. In the event of a breakdown or malfunction, the service agent shall, within 24 hours of the breakdown or malfunction, ensure that temporary repairs are carried out to the aerated system to ensure continued operation of the system. This may necessitate provision of adequate spare parts and temporary replacement blowers and irrigation pumps where repairs cannot be completed on site.

53 R114 - EMA Turfed

The effluent management area is to be turfed to the satisfaction of Council. Where a specific variety of turf is identified in the approved Wastewater Report that variety is to be installed and maintained.

54 R115 - No structures on EMA

No concreting, driveways, vehicles or any other structure or access way is to be located over any portion of the effluent management area.

55 R116 - Diversion of stormwater

All stormwater and seepage shall be diverted away from the septic tank and the disposal area by using an agricultural drain or earthen bund and dish drain.

56 R117 - No plants for human consumption within EMA

Orchards, vegetable gardens or any other plant species that can be used for the purposes of human consumption are not to be planted within the effluent management area. Effluent from the on-site sewage management system is not to be used on fruit or vegetables grown for human consumption.

57 R118 - EMA protected from stock damage

The effluent management area shall be protected from possible stock damage.

58 [R119 - Wastewater and Native Trees](#)

No wastewater associated with the on-site sewage management system is to be applied or irrigated within the drip line of any native trees within the effluent management area.

It is the responsibility of the applicant to ensure the ongoing health of the trees in relation to the effluent management area.

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

Prior to the issue of the Construction Certificate, the NSW Health Accreditation and system specification documentation is to be submitted to Council for approval. If Council is not the certifying authority, a copy of Council's written approval is to be provided to the Private Certifying Authority.

60 [R128 - Swimming pool back wash](#)

At no time is the swimming pool back wash to be directed to the on-site sewage management system.

Appendix - Development Control Plan Compliance

D1.2	Rural Dwellings and Outbuildings	Complies Y/N	Comments
1.2.1	<p>Siting and Orientation of Dwellings and Outbuildings</p> <p>Dwellings and associated buildings should be sited to maximise the natural advantages of the land in terms of:</p> <ul style="list-style-type: none"> i) Protecting the privacy of proposed and existing buildings; ii) Providing flood-free access to the dwelling and a flood-free location for the dwelling itself; iii) Minimising risk from bush fire by considering slope, orientation and location of likely fire sources; iv) Maximising solar access; v) Retaining as much of the existing vegetation as possible; and vi) Minimising excavation, filling and high foundations by avoiding steep slopes (greater than 1 in 6). <p>b) The design of the development must consider all components including fencing, outbuildings, driveways and landscaping.</p> <p>c) Where practical, all buildings on a site, including dwellings and outbuildings, should be clustered to improve the visual appearance of the development in its landscape setting and reduce the need for additional access roads and services.</p>	<p>Y</p> <p>Y</p> <p>Y</p> <p>Y</p> <p>Y</p> <p>Y</p> <p>Y</p>	<p>The proposed dwelling is generally sited in accordance with the 88B Restriction – Building Envelope (BE).</p> <p>A variation to the BE has been proposed and a condition will be included in the Development Consent regarding the amendment and registration of the BE.</p> <p>The development proposes have a north south orientation to maximise solar access. However, the orientation is not consistent with the building envelope associated with the lot and is considered to have unreasonable privacy impacts upon the adjoining neighbour.</p> <p>Reorientating the development 10° to the south west will significantly reduce this potential impact upon the adjacent property. It is considered that this reorientation will not have a significant impact upon the solar accessibility of the living areas of the proposed dwelling.</p> <p>The application includes a condition requiring the reorientation of the dwelling 10° to the south west. This will improve the alignment</p>

			<p>of the dwelling with the approved building envelope whilst reducing the privacy impacts upon the adjacent property.</p> <p>It is considered that the proposed dwelling and shed have been clustered together on site as much as possible, whilst also providing enough separation to minimise potential impacts upon the streetscape.</p>
1.2.1	<p>Landscape / Scenic Character</p> <p>a) Buildings on sloping land should be sited (where natural features permit) so they do not intrude into the skyline.</p> <p>b) Buildings should not be placed on the ridgeline or peak of any hill unless there are no alternative locations possible.</p> <p>c) Where practical, buildings should be sited to take advantage of existing vegetation to provide privacy from passing traffic and public places, screening from winds and a pleasant living environment.</p> <p>d) Roads should be designed and located to run with the contours of the land.</p> <p>e) Rooflines and ridgelines should reflect the setting of the dwelling, incorporating simple shapes to step a building down with a sloping site or level change.</p> <p>f) Simple rooflines should be used to minimise the likelihood of twigs and leaves building up in valleys and presenting a bushfire hazard.</p>	<p>Y</p> <p>Y</p> <p>Y</p> <p>Y</p> <p>Y</p> <p>Y</p>	<p>The proposed dwelling is generally sited in accordance with the 88B Restriction – Building Envelope (BE).</p> <p>A variation to the BE has been proposed and a condition will be included in the Development Consent regarding the amendment and registration of the BE. No vegetation is required to be removed or disturbed.</p> <p>The roof design is considered to be generally consistent with the controls.</p> <p>The roof of the detached shed has been altered to reduce potential impacts upon the streetscape.</p>
1.2.2	<p>Setbacks and Building Separations</p> <p>1. Setbacks from Roads</p> <p>a) A minimum setback of 15m from public roads is required for all dwellings and outbuildings. Formal parking areas are not permitted within the setback.</p> <p>b) A variety of setbacks will be encouraged to prevent rigidity in the</p>	<p>Y</p> <p>Y</p> <p>N/A</p>	<p>30m setback proposed.</p>

	<p>streetscape.</p> <p>c) A minimum setback of 30m is required to all classified roads (except Mulgoa Road), Luddenham Road, Greendale Road and Park Road (except in the villages of Londonderry, Wallacia and Luddenham). Please contact Council to discuss.</p> <p>d) A minimum setback of 100m is required to Mulgoa Road for all dwellings and outbuildings (except in the Mulgoa Village).</p> <p>2. Setbacks from Watercourses</p> <p>a) A minimum setback of 100m is required from the Nepean River. This is measured from the top of the bank. The river includes all elements, such as lagoons and backwaters. Council will determine the minimum setback required if the "bank" is difficult to define.</p> <p>b) A minimum setback of 75m is required from South Creek for all dwellings and outbuildings.</p> <p>c) A minimum setback of 40m is required from any other natural watercourses for all dwellings and outbuildings to minimise impacts on the watercourse.</p> <p>3. Building Separations and Side Boundary Setbacks</p> <p>a) Dwellings on adjacent properties should be considered when determining the location of a proposed dwelling to ensure that separation distances are maximised as far as is reasonably possible to maintain amenity for each dwelling and minimise noise and privacy intrusions.</p> <p>b) The minimum side setback for dwellings is 10m where the allotment is 2 hectares or larger.</p> <p>c) The minimum side setback for dwellings is 5m where the allotment is less than 2 hectares.</p> <p>d) Dwellings on one allotment should be separated as much as reasonably possible from any farm buildings or other buildings on adjacent allotments where there is potential for noise generation from those farm buildings/other buildings.</p>	<p>N/A</p> <p>Y</p> <p>N/A</p> <p>Y</p> <p>Y</p> <p>Y</p> <p>N/A</p> <p>Y</p>	<p>17.3m eastern setback 20m+ western setback</p>
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1.2.4	<p>Height, Scale and Design</p> <p>a) Dwellings shall be no more than two storeys in height, including garage and storage areas.</p> <p>b) If liveable rooms are located in the area immediately below the roof then this level will be counted as a storey.</p> <p>c) The maximum height of the ceiling of the top floor of all buildings should not exceed 8m above natural ground level.</p> <p>d) On sloping sites, split level development is preferred. The floor level of the dwelling at any point should not be greater than 1m above or below the natural ground level immediately below the floor level of that point. Cut and fill should be limited to 1m of cut and 1m of fill as shown in Figure D1.7.</p> <p>Design and Quality</p> <p>a) The design of dwellings and associated structures should be sympathetic to the rural character of the area.</p> <p>b) Fencing is to be of an open rural nature consistent in style with that normally found in rural areas. Internal courtyard fencing or entry fencing should be sensitive to the rural environment.</p>	<p>Y</p> <p>Y</p> <p>Y</p> <p>Y</p> <p>Y</p> <p>Y</p> <p>Y</p>	<p>Split level design proposed.</p> <p>The dwelling maintains the appearance of a two storey development when viewed from the street and adjoining properties. Basement garage predominantly located to the rear of the proposed dwelling.</p> <p>Fencing does not form part of this application, however a condition has been included in the Development Consent requiring any fencing to comply with SEPP –Exempt and Complying Development 2008.</p>
1.2.7	<p>Materials and Colours</p> <p>1) Colours of external finishes should be in keeping with the natural surroundings, be non-reflective and utilise earthy tones, unless it can be demonstrated that the proposed colours and finishes will have no visual impact or will complement the rural character.</p> <p>2) Building materials with reflective surfaces such as large expanses of glass, unpainted corrugated iron, concrete blocks, sheet cladding or similar finishes should be avoided. Where these materials are unavoidable, they should be screened with landscaping to minimise visual impact.</p> <p>3) Re-sited dwellings may be considered in rural areas, however, the external finishes may be required to be upgraded to Council's satisfaction.</p>	<p>Y</p> <p>Y</p> <p>N/A</p>	<p>The proposed materials and colours are considered to be generally consistent with the surrounding locality.</p>

1.3.1	<p>Siting and Orientation</p> <p>1) Farm buildings and outbuildings should be clustered in one location on properties. Where possible, this should be close to dwellings, but not where this will result in land use conflict.</p> <p>2) Farm buildings should have complementary colours and finishes to the dwelling house and surrounding environment.</p> <p>3) Farm buildings should not be erected on land having a slope in excess of 15%. Cut and fill for farm buildings should be limited to 1m of cut and 1m of fill as shown in Figure D1.11.</p> <p>4) Farm buildings should be sited on the land so any disturbance to native vegetation is minimal.</p> <p>5) The narrowest elevation of farm buildings should face the road.</p> <p>6) Farm buildings shall be set back a minimum of 40m from any watercourse.</p> <p>7) Farm buildings should be setback behind the building line of the existing dwelling house on the property.</p> <p>8) Farm buildings should be a minimum distance of 10m from a dwelling located on the same allotment as the farm building.</p> <p>9) Farm buildings should be a minimum distance of 20m from a dwelling located on an adjacent allotment to the farm building.</p> <p>10) Landscape buffers should be provided, where possible, between farm buildings and nearby dwellings to minimise the visual impact of the farm building.</p> <p>11) Farm buildings should be a minimum distance of 5m from the side boundaries.</p>	<p>Y</p> <p>Y</p> <p>Y</p> <p>Y</p> <p>Y</p> <p>Y</p> <p>Y</p> <p>Y</p> <p>Y</p> <p>Y</p> <p>Y</p> <p>Y</p> <p>Y</p>	<p>Cut and fill does not exceed 1 metre.</p> <p>No vegetation removal or disturbance required or proposed. The proposed buildings are within existing cleared areas on the property.</p>
1.3.2	<p>Floor Space, Height and Design</p> <p>1) For allotments 3 hectares in size or less, the maximum accumulative building footprint of all farm buildings on an allotment shall not exceed 200m² (see Figure D1.13).</p> <p>2) For allotments between 3 hectares and 10 hectares in size, the maximum accumulative building footprint of all farm buildings on an allotment shall not exceed 400m².</p> <p>Note: 'Accumulative building footprint' means the total sum of the ground floor area of all of the farm buildings on a single property. (The floor area under an awning may also be included as part of the accumulative building footprint, depending on the circumstances).</p>	<p>Y</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>Y</p> <p>Y</p>	<p>Amended plans were received reducing the footprint of the proposed shed to be a maximum size of 200m²..</p>

	<p>3) For allotments more than 10 hectares in size, the maximum accumulative building footprint of all farm buildings on an allotment shall not exceed 600m².</p> <p>4) Intensive agricultural uses may require larger accumulated building footprints than those specified above. Variation will be considered but must be justified in the application.</p> <p>5) A farm building should not be more than 8m high.</p> <p>6) The maximum external wall height of a farm building shall be 5m. External wall height means the distance from the natural ground level to the underside of the eaves.</p> <p>7) Where a farm building is higher than the dwelling on the land, the building must be located behind the dwelling and screened from view by vegetation (or similar).</p> <p>8) The design of farm buildings should comprise traditional roof shapes to provide visual relief to the building, reduce the buildings dominance over its setting and to provide interest and character to the locality.</p> <p>9) Farm buildings should have a maximum external wall length of 15m between distinct corners or significant features such as awnings.</p> <p>10) Farm buildings shall have a minimum roof pitch of 15° and a maximum roof pitch of 25°.</p> <p>11) All elevations of farm buildings that face the street are to present a suitable level of detailing to minimize their visual bulk. Features which can be used include windows, awnings and verandahs.</p>	<p>N/A</p> <p>Y</p> <p>Y</p> <p>Y</p>	<p>A vegetation screen is proposed to be planted along the south eastern side boundary reducing potential impacts upon adjoining properties. Additional tree planting is conditioned to the south east section (indicated on the site plan) to further protect the privacy from the first floor rear balcony on the adjoining lot to the south east.</p>
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1.3.3	<p>Materials and Colours</p> <p>1) The colour of farm buildings shall complement the colours of the natural vegetation and background of the property, such as grey, brown, beige and green.</p> <p>2) Farm buildings shall be constructed of non-reflective materials. Where traditional materials, such as unpainted corrugated iron, are used, the building must be screened by landscaping to minimise its visual impact.</p> <p>3) The construction of farm buildings should utilise a range of materials to aid in the articulation of the building form.</p> <p>4) Where farm buildings are below the 1:100 ARI flood level, they are to be constructed of materials that can withstand flooding.</p>	<p>Y</p> <p>Y</p> <p>Y</p> <p>Y</p>	<p>The proposed materials and colours are considered to be consistent with the surrounding locality.</p>

Further Comments

The proposed development includes the proposed variation to the 88B Restriction to User under the DP and was discussed with senior staff including the Manager of Development Services who considered the amended plans to be reasonable and generally in accordance with the provisions of DCP 2014 including the 'Lifting the Bar' provisions.

88B

There is an 88B Restriction to User which sets out a specific Building Envelopes (BE) and Asset Protection Zones (APZ) for each property within the DP.

The Subdivision application was approved by the Land and Environment Court. It remains unclear as to the exact reason behind the requirements for the BE in this instance. It is assumed to be in regards to the complexities of the site, and the protection of the environmental features of the land including bushfire, threatened species, aboriginal heritage, flooding and site stability.

The application proposes to construct part of the dwelling and the entirety of the farm building outside the BE. Additional Reports were submitted by the Applicant justifying the proposed variation including an amended Bushfire Report and APZ (which makes reference to the Rural Fire Service conditions of approval), a revised Geotechnical Report, Flora and Fauna Report and additional comments regarding the original approval letter regarding the aboriginal heritage in the locality.

The dwelling is proposed to be partly outside the BE, and the garage is located outside the BE to the north west . The portion of the dwelling and the whole of the shed located outside the BE is supported, however the proposed orientation of the dwelling is not consistent with the orientation of the BE and concerns have been raised with conflict with Penrith's DCP in regards to privacy impacts. The reason for the position of the BE has been assessed and Council supports a slight re orientation of the dwelling from the BE, where the impact to bushfire, threatened species, aboriginal heritage, and flooding on the site are maintained and protected and the orientation of the dwelling demonstrates compliance with Penrith's DCP.

It was concluded that the proposed orientation of the dwelling unreasonably alters the fixed orientation of the BE and by doing so creates undue privacy impacts upon the adjacent Lot 7. Whilst the proposed orientation is intended to maximise solar access to the dwelling, a reorientation of 10° to the south west does not significantly reduce the solar accessibility of the dwelling and demonstrates compliance with Penrith's DCP.

The Development Consent will include specific conditions to reorientate the dwelling 10° to the south

west and the required amendment to and registration of the existing BE. The conditions will require these matters to be addressed prior to the issue of any Construction Certificate for the proposed development.

SEPP (Penrith Lakes Scheme) 1989

The requirements of the Lakes SEPP e.g Flood Planning Levels and Evacuation Plan/s have been previously addressed by the Department of Planning (refer to recent DAs in this DP under ECM). The Aboriginal Cultural Heritage Assessment was originally addressed in the Subdivision application, however additional conditions will be included in the Development Consent regarding the potential for the uncovering of relics during the course of building works being carried out on the site.