

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA21/0524
Proposed development:	Demolition of Existing Dwelling and Construction of a New 2 (Two) Storey Dwelling
Property address:	11 Denintend Place, SOUTH PENRITH NSW 2750
Property description:	Lot 127 DP 246594
Date received:	20 July 2021
Assessing officer	Paul Buttigieg
Zoning:	SEPP WSA - Affected by Obstacle Limitation SEPP WSA - Affected by Wildlife Buffer Zone Zone R2 Low Density Residential - LEP 2010
Class of building:	Class 1a
Recommendations:	Approve

Executive Summary

Council is in receipt of a development application for demolition of existing structures, pool to be retained and construction of new 2 storey dwelling at 11 Denintend Place South Penrith. Under Penrith Local Environmental Plan (LEP), the proposal is defined as a dwelling house. The subject site is zoned R2 Low Density Residential and the proposal is a permissible land use in the R2 zone with Council consent.

An assessment under Clause 4.15 of the Environmental Planning and Assessment Act 1979 has been undertaken and the application is recommended for approval subject to recommended conditions.

The Development Application is reported to the Local Planning Panel for determination as the property owner is a employee of Penrith City Council.

Site & Surrounds

The subject site is situated on the northern side of Denintend Place South Penrith towards the end of the cul-de-sac. It is 558m² in area, is orientated in a southern direction and the site is considered to be relatively flat.

An inspection of the site was undertaken on 6th August 2021 and the site is currently occupied by a single storey dwelling, inground swimming pool and ancillary structures.

The surrounding area is characterised by a mix of single and double storey residential dwellings.

Proposal

The development application seeks approval for demolition of existing structures, pool to be retained and construction of new 2 storey dwelling.

Plans that apply

- Local Environmental Plan 2010
- Development Control Plan 2014
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

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

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

The proposed development has an estimated cost of works greater than \$50,000 therefore the proposal is subject to Basix requirements.

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.

Local Environmental Plan 2010

Provision	Compliance
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Permissibility	Complies - See discussion
Clause 2.3 Zone objectives	Complies - See discussion
Clause 2.7 Demolition requires development consent	Complies - See discussion
Clause 4.3 Height of buildings	Complies - See discussion
Clause 7.7 Servicing	Complies

Clause 2.3 Permissibility

Construction of a dwelling house is permissible land use within the R2 Low density Residential under Penrith LEP 2010 with Council consent.

Clause 2.3 Zone objectives

The subject site is located within the R2 Low Density Residential zone under Penrith Local Environmental Plan 2010. Objectives of the zone include:

- To provide for the housing needs of the community within a low density residential environment
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To promote the desired future character by ensuring that development reflects features or qualities of traditional detached dwelling that are surrounded by private gardens.
- To enhance the essential character and identity of established residential areas.
- To ensure a high level of residential amenity is achieved and maintained.

The proposed development meets these objectives by demonstrating the design of the development to be compatible with established landscape character of the subject site and surrounding area.

Clause 2.7 Demolition requires development consent

The proposed development requires demolition work to be carried out. A waste management plan accompanies the application and will form part of the approved documentation for the development and a condition on the consent is provided, requiring compliance with AS2601 - 2001 - The demolition of structures.

Clause 4.3 Height of buildings

The subject site is identified through Penrith Local Environmental Plan 2010 - Height of Buildings Map - Sheet HOB_006 as being located in an area identified (I), which details the maximum building height permissible is 8.5m.

The overall building height is 8090mm which demonstrates compliance with the clause.

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

There are no draft environmental planning instruments that apply to the proposal.

Section 4.15(1)(a)(iii) The provisions of any development control plan

Development Control Plan 2014

Provision	Compliance
DCP Principles	Complies
C1 Site Planning and Design Principles	Complies
C2 Vegetation Management	Complies
C3 Water Management	Complies
C4 Land Management	Complies
C5 Waste Management	Complies
C6 Landscape Design	Complies
C7 Culture and Heritage	N/A
C8 Public Domain	N/A
C9 Advertising and Signage	N/A
C10 Transport, Access and Parking	Complies
C11 Subdivision	N/A
C12 Noise and Vibration	N/A
C13 Infrastructure and Services	Complies
D2.1 Single Dwellings	Complies - see Appendix - Development Control Plan Compliance
D2.2. Dual Occupancies	N/A
D2.3 Secondary Dwellings	N/A
D2.4 Multi Dwelling Housing	N/A
D2.5 Residential Flat Buildings	N/A
D2.6 Non Residential Developments	N/A

Section 4.15(1)(a)(iiia) The provisions of any planning agreement

There are no planning agreements applying to this proposal.

Section 4.15(1)(a)(iv) The provisions of the regulations

In accordance with Section 94 of the Environmental Planning and Assessment Regulation 2000, an assessment of the fire protection and structural capacity of the proposed dwelling is necessary and this has been conditioned for assessment and certification at Construction Certificate and Occupation Certificate stage.

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

Likely impacts of the proposed development as identified throughout the assessment process include:

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

The proposal is consistent with the bulk, scale, colour and design of other development in the locality.

The development will have only minor impact on the amenity of the area and the streetscape.

The development is compatible with the surrounding and adjacent land uses.

(ii) Access and transport

The development will have no adverse impact on the local road system.

The existing access arrangements and proposed car parking on site will be adequate for the development.

(iii) Heritage

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

(iv) Soil

The proposed development will have no 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.

With the above points being made the proposed dwelling meets the objective of the DCP. It is unlikely to have a significant adverse impact upon environment, adjoining dwellings or streetscape.

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

The site is suitable for the following reasons:

- Site characteristics are retained
- Residential amenity is achieved.

Section 4.15(1)(d) Any Submissions

Community Consultation

In accordance with Clause 4.4 of Appendix F4 of Penrith Development Control Plan 2014, the proposed development was notified to the nearby and adjoining residents and no submissions were received.

Section 4.15(1)(e) The public interest

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

Conclusion

In assessing this application against the relevant environmental planning policies, being Penrith Local Environmental Plan 2010 and Penrith Development Control Plan 2014, the proposal satisfies the aims, objectives and provisions of these policies.

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 DA21/0524 for demolition of existing structures, pool to be retained and construction of new 2 storey dwelling at 11 Denintend Place SOUTH PENRITH NSW 2750, be approved subject to the attached conditions.

CONDITIONS

General

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

The development must be implemented substantially in accordance with the plans drawn by David Walker, numbered 921.1 to 921.7 inclusive and dated 17/08/2021 Issue B, and stamped approved by Council, the application form, the BASIX Certificate and any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

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

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

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

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

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

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

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

Demolition

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

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

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

6 [B003 - ASBESTOS \(amended from Council adopted version\)](#)

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

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

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

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

7 [B004 - Dust](#)

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

8 [B005 - Mud/Soil](#)

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

9 [B006 - Hours of work](#)

Demolition works will be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:

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

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

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

Environmental Matters

10 [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 and the land, that was subject to the works, have been stabilised and grass cover established.** These measures shall ensure that mud and soil from vehicular movements to and from the site does not occur during the construction of the development.

11 [D007 - Cut and fill of land requiring Validation Certificate –limited to footprint](#)

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

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

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

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

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 waste management plan.

Waste materials not specified in the 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.

Construction

16 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.

17 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).

18 H022 - Survey (as amended)

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

19 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.

20 **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.

21 **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.

22 **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.

23 **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

24 **J004 - Pool fence (residential)**

At all times, the swimming pool is to be surrounded by a child-resistant barrier that:

- separates the swimming pool from any residential building situated on the premises and from any place (whether public or private) adjoining the premises, and maintained in accordance with the standards prescribed by AS 1926 "Swimming Pool Safety".

Engineering

25 **K016 - Stormwater**

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

26 **K026 - Stabilised access**

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

27 **K041 - 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.

28 [K202 - Roads Act \(Minor Roadworks\)](#)

Prior to the issue of a Construction Certificate a Roads Act application, including payment of application and inspection fees shall be lodged with Penrith City Council, as the Roads Authority, for any of the following works:

- a) Provision of a vehicular crossing/s.
- b) Opening the road reserve for the provision of services including stormwater.
- c) Placing of hoardings, containers, waste skips, etc. in the road reserve.

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

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

29 [K501 Roads Authority clearance](#)

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

Landscaping

30 [L001 - General landscaping \(applies to most building works\)](#)

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

Landscaping shall be maintained:

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

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

Payment of Fees

31 [P002 - Fees associated with Council land \(Applies to all works & add K019\)](#)

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

Certification

32 [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.

33 [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.

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part B - DCP Principles

The development proposal is considered to be in line with the principles, commitments and objectives of the Penrith Development Control Plan 2014 (DCP).

D2 Residential Development

D2	Residential Development – Single Dwellings	Complies Y/N	Comments
2.1.2	Front setback – Minimum 5.5m or average of adjoining properties.	Yes	5500mm
	Secondary Street (where applicable) – Minimum 3m to external walls and minimum 5.5m to garage entrances	N/A	
	Encroachments - Verandahs and pergolas are permitted to encroach 1.5m beyond the setback	Yes	1200mm
	Side setback – minimum 900mm	Yes	Western Side- 900mm Eastern Side- 2100mm
	Rear setback – minimum 4m for single storey component or 6m for 2 storey component	Yes	Ground Floor- 4500mm First Floor-8500mm
	(non-habitable building or structure can be closer if minimal adverse impact on the subject property or any adjoining property)	N/A	
	Building envelope compliance (encroachments permitted if improved design, appearance or utility and minimal impact)	No	Request for Variation submitted. See discussion below.
2.1.3	Cut and fill does not exceed 600mm measured from NGL.	Yes	
	Ground floor levels max 800mm above NGL	Yes	
	Retaining wall forward of garage are masonry	N/A	

	Lots with a side cross slope exceeding 5%, must respond to the slope of the land with either split level, drop edge beam, or bearer and joist design (or a combination of these)	N/A	
	Where front to back slopes are steep (i.e. approximately greater than 9%) house designs must respond to the topography of the land with either split level, dropped edge beam, or timber frame floor (bearer and joist) design - or a combination of these.	N/A	
	Garden retaining walls within lots are not to exceed 0.9m in height. Any remaining slope is to be graded out.	N/A	
	Driveway gradient to not exceed 20%	Yes	
	On lots sloping downhill from the street, the privacy of adjoining dwellings down slope should be preserved by providing screening vegetation between observable platforms and adjoining private open space areas, or integrating features such as timber screens to decks, or partially opaque windows where privacy is essential and screening vegetation is impractical.	N/A	
2.1.4	The minimum landscaped area of a site is Zone Minimum landscaped area % of the site R2 50%	Yes	
2.1.5	Articulate all building forms and facades	Yes	

	<p>Parking is to be provided at the rate of:</p> <p>i) A minimum of one space behind the building alignment</p> <p>ii) Two spaces for each dwelling with two or more bedrooms, at least one of which is located behind the building alignment. Stacked parking is acceptable for additional spaces.</p>	Yes	
2.1.6	<p>Solar Planning</p> <p>Ensure that the proposed development provides a minimum of 3 hours sunlight between 9am and 3pm on 21 June, to living zones of the dwelling, and the living zones of any adjoining dwellings;</p>	Yes	
	<p>Ensure that the proposed development provides a minimum of 3 hours sunlight between 9am and 3pm on 21 June, to 40% of the main private open spaces of the dwelling and main private open spaces of any adjoining dwellings</p>	Yes	
	<p>Where existing overshadowing by buildings and fences reduces sunlight to less than this, sunlight is not further reduced by more than 20%</p>	N/A	

2.1.7	Retaining walls: a) generally should be no taller than 600mm; b) should be separated from any associated fence by a planter-bed at least 500mm wide, minimising the apparent overall height of fencing; c) should be separated from any driveway by a landscaped verge at least 500m wide, to prevent impact damage from vehicles.	N/A	
	Fences should be generally no taller than 1.8m or up to 2.4m on sloping sites, including the height of any retaining wall.	N/A	No change to existing.
	Fences along boundaries forward of the front building alignment should not be taller than 1.2m and consist of see-through construction	N/A	

A request for variation has been provided for the following DCP clauses:

Penrith DCP 2014 D2 Residential Development Clause 2.1.2 Setbacks and Building Envelope

Control-

2. Building Envelope

a) Development is to be contained within the building envelope for the site. As shown in Figure D2.1 below, the building envelope means a height plane over the site at 45° from a specified height above natural ground level at the side boundaries of the site.

b) Encroachments – consideration may be given to minor encroachments to the building envelope for:

- i) Eaves and gutters
- ii) Chimneys and antennas
- iii) Pergolas, or
- iv) Where it is demonstrated the encroachment is necessary to improve the design, external appearance or utility of the building and the variation will not impact adversely on the amenity of an adjoining property.

Key Points of the Development

- The lot is 558sqm in area.
- The lot tapers out along the eastern side boundary, becoming wider at the rear.
- The lot has a front boundary width of 13.01m and rear boundary width of 23.81m.
- The existing inground swimming pool is to be retained.
- A side setback of 2100mm is proposed to the eastern side of the proposed dwelling, allowing for access to the rear yard and for storage purposes.
- The development complies with Solar Planning Objectives of the DCP.
- The proposed dwelling has walls that stagger on the eastern side responding to the lot width being wider at the rear.
- The proposed dwelling encroaches the building envelope on both sides.

- The eastern elevation of the proposed dwelling has a minor point encroachment.
- The western elevation encroaches for the full length of the proposed dwelling.
- There have not been any submissions made regarding the proposed development.
- A request for variation is sought for the building envelope encroachment referencing clause D2.1.2 b) iv) of the DCP.

Relevant Objectives of the proposed variation to the DCP:

Objectives

Building setbacks and envelopes are established to:

- a) reflect the character of established garden suburbs,
- b) provide for establishment of vegetation and reasonable separation between buildings,
- c) To provide a high level of visual and acoustic privacy for residents and neighbours in dwellings and private open space,
- d) To ensure that building design minimises overlooking problems,
- e) achieve site-responsive development,
- f) protect the amenity of occupants by controlling:
 - i) visual impacts relating to height and bulk of buildings;
 - ii) the impact of loss of privacy, overshadowing and loss of views.

How the objective is being achieved in the proposal:

- A landscape plan has been submitted which details the use of soft areas and proposed plant species.
- The proposed landscaping incorporates minimal hard surfaces, a mixture of trees, shrubs and hedges which in turn reduce the bulk and scale of the dwelling when viewed from the street.
- The proposed landscaping is consistent with other lots within Denintend Place.
- The lot is 50% landscaped allowing ample space for proposed and future planting.
- A variety of front setbacks are provided along Denintend Place.
- The proposed setbacks are similar to the existing dwelling.
- Reasonable separation has been maintained between buildings and reflects the character of the area.
- Privacy from private open spaces is provided for by the use of proposed screen planting, including trees and hedges.
- The adjoining lots have a similar ground level as the subject lot.
- High sill windows to the side elevations of the first floor have been proposed.
- The proposed rear setback to the first floor is 8500mm.
- Acoustic privacy is maintained through dwelling setbacks, landscaping and dwelling design.
- Bedrooms, a study and bathrooms are located on the first floor with a sitting room centrally placed.
- A combination of high sill and frosted windows have been provided to side elevations of the first floor.
- The proposed rear setback to the first floor is 8500mm with a separation of 16000mm to the adjoining dwellings to the rear.
- The lot has an irregular shape, tapering on the eastern side and becoming wider towards the rear.
- The proposed dwelling has been designed around the retention of an existing swimming pool.
- The proposed dwelling has walls that stagger on the eastern side responding to the lot width becoming wider towards the rear.
- A landscaped area of 50% has been achieved.
- Full compliance with the building envelope control would impact on the living space and amenity of the dwelling.
- The proposed dwelling utilises articulation to all elevations.
- Long walls are broken up by varied finishes, materials and banks of windows.
- On balance the proposed dwelling will be visually appealing when viewed from the street.
- The proposed dwelling will not have any adverse impacts to adjoining dwelling in terms of privacy, overshadowing or loss of views.

Conclusion

The request for variation is supported and recommended for approval as the development meets the objectives of the DCP and is site responsive, unlikely to have a significant adverse impact upon the surrounding environment, adjoining properties or the streetscape.