

# PENRITH CITY COUNCIL

## MAJOR ASSESSMENT REPORT

<b>Application number:</b>	DA21/0836
<b>Proposed development:</b>	Construction of an Attached Dual Occupancy with Strata Subdivision
<b>Property address:</b>	6 Assisi Close, CRANEBROOK NSW 2749
<b>Property description:</b>	Lot 20 DP 1197799
<b>Date received:</b>	10 November 2021
<b>Assessing officer</b>	James Heathcote
<b>Zoning:</b>	Zone R2 Low Density Residential - LEP 2010
<b>Class of building:</b>	Class 1a
<b>Recommendations:</b>	Approve

### Executive Summary

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**The reason the subject application is being referred to the Local Planning Panel for determination is due to the number of submissions received.**

Council is in receipt of a development application for an attached two-storey dual occupancy and strata subdivision x 2 lots at 6 Assisi Close, Cranebrook NSW 2749.

Under Penrith Local Environmental Plan (LEP) 2010 the proposal is defined as a dual occupancy. The subject site is zoned R2 Low Density Residential and the proposal is a permissible land use in the zoning with consent.

The key issue identified in the assessment of the application is minimum lot size requirements within the LEP for dual occupancy developments in the zone. The site does not meet the minimum lot size for dual occupancy development as outlined within Clause 4.1A, being a minimum of 650 square metres. The variation to the lot size requirements has however been appropriately justified through a Clause 4.6 variation request from the applicant. The proposal satisfies the objectives of both Clause 4.1A and the R2 Low Density Zone, by providing a dual occupancy of a reasonable scale that satisfies the many provisions within Penrith LEP 2010 and Penrith Development Control Plan 2014 (DCP). As such the proposed development and variation to a development standard is considered to be supportable.

The application was notified to adjoining properties and exhibited between 22 November 2021 and 6 December 2021. Council received 11 unique submissions in response to the application as made by 10 objectors.

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

### Site & Surrounds

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#### Properties of the Site:

The subject site is legally described as Lot 20 of DP 1197799 and is located on the western side of Assisi Close, approximately 50m south of the intersection of Assisi Close and Cassar Crescent in Cranebrook. The site has an area of 640.10 square metres with an approximate 15m curved frontage to Assisi Close.

The site is currently vacant, with a single street tree located at the front verge of the site. The surrounding area is characterised by low density residential development (zoned R2 Low Density Residential), with Assisi Close being a small sectioned cul-de-sac. The subject site is the last lot in the subdivision area to be developed. The site backs onto Corpus Christi Catholic Primary School.

The subject site is not bushfire prone land, is not affected by any local overland flow flooding. The site benefits from a drainage easement along the southern boundary line.

#### **Site History (Recent):**

- DA21/0836 - Subject Application.
- DA17/1008 - Attached Dual Occupancy & Strata Subdivision x 2 Lots - Consent expired 22 February 2020. Applicant advised this application not pursued due to consent expiry.
- [Previous Property File] SC15/0055 - Torrens Title Subdivision x 21 Residential Lots, 1 Residue Lot & Public Road.

#### **Restrictions on the Land (Lot 20 DP 1197799):**

Deposited plan reviewed. Applicable restrictions listed below:

- 1 - Easement to Drain Water 1.5 and 2 Wide (C). Burdened Lots 15-19. Benefitting Lots include Lot 20. See discussion under the Likely Impacts section of this report for more information.
- 5 - Restriction on the Use of Land - All Lots burdened and benefited. Refers to rules on fencing which do not apply to the proposed development.
- 13 - Positive Covenant - Burdened Lots 1-21 inclusive. Benefitting authority is Penrith City Council. Refers to dwellings being constructed in a manner compliant with AS 2107-2000 (Recommended Design Sound levels and Reverberation Times for Building Interiors). This aspect shall be ensured through recommended conditions of consent.
- 14 - Restriction on the Use of Land - Burdened Lots 1-21 inclusive. Benefitting authority is Penrith City Council. Refers to rainwater tank requirements. This aspect shall be ensured through recommended conditions of consent.

## **Proposal**

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The proposed development includes the following:

- Construction of a two-storey attached dual occupancy,
- Strata title subdivision x 2 lots,
- Associated driveway, landscaping, drainage and associated works.

## **Plans that apply**

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- Local Environmental Plan 2010
- Development Control Plan 2014
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy No 55—Remediation of Land
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

## Planning Assessment

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- **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, and having regard to those matters, the following issues have been identified for further consideration.

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

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

The aim of this policy is to ensure consistency in the implementation of the BASIX scheme throughout the state, ensuring that certain types of residential development is sustainable through applications providing a list of commitments regarding the manner in which the development will be carried out.

The BASIX Certificate, numbered 1257151M, submitted with the application confirms that the proposed development will meet the policy's requirements for sustainability, passing sustainability targets for water, thermal comfort and energy.

#### **State Environmental Planning Policy No 55—Remediation of Land**

State Environmental Planning Policy No 55 - Remediation of Land (SEPP 55) aims to provide a framework for the assessment, management and remediation of contaminated land throughout the state. Clause 7(1) of SEPP 55 requires a consent authority to be satisfied that the site is suitable for the proposed development, or can be made suitable prior to the determination of the application.

The site is currently purposed for residential purposes, which is unchanged as a result of the proposed development. No recent history of any contaminating activities are recorded on the subject site.

As such, the proposal satisfies the requirements of SEPP 55.

#### **Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River**

Sydney Regional Environmental Plan No. 20 - Hawkesbury-Nepean River (No 2 - 1997) applies to the subject land and stipulates that the consent authority shall not grant consent to the application unless it is of the opinion that the carrying out of the development is consistent with any relevant, general and specific aim of the plan.

The general aims and objectives of the plan are directed towards improving the amenity of the river and protecting the lands within the river valley, including scenic quality.

An assessment has been undertaken of the application against criteria with Sydney Regional Environmental Plan No 20 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
Clause 2.6 Subdivision - consent requirements	Complies
Clause 4.1A Minimum lot sizes for dual occupancies, multi dwelling housing and residential flat buildings	Does not comply - See discussion
Clause 4.3 Height of buildings	Complies
Clause 4.4 Floor Space Ratio	N/A
Clause 4.6 Exceptions to development standards	Complies - See discussion
Clause 5.4 Controls relating to miscellaneous permissible uses	N/A
Clause 5.10 Heritage conservation	N/A
Clause 5.21 Flood planning	N/A
Clause 7.5 Protection of scenic character and landscape values	N/A
Clause 7.7 Servicing	Complies
Clause 7.10 Dual occupancies and secondary dwellings in certain rural and environmental	N/A

### Clause 2.3 Permissibility

The subject site is zoned R2 Low Density Residential and Dual Occupancies are permitted in the zone with consent.

As such, Clause 2.3 has been satisfied.

### Clause 4.1A Minimum lot sizes for dual occupancies, multi dwelling housing and residential flat buildings

Clause 4.1A specifies that for a dual occupancy in the R2 Low Density Residential zone that a minimum lot size of 650 square metres be provided. The subject site has an area of 640.10 square metres (short by 9.9 square metres or 2%). This does not comply with the requirements of Clause 4.1A and a Clause 4.6 variation request has been provided with the application.

See discussion under the Clause 4.6 section of this report for more information.

### Clause 4.6 Exceptions to development standards

Clause 4.1A of Penrith LEP 2010 specifies that for a dual occupancy in the R2 Low Density Residential zone that a minimum lot size of 650 square metres be provided. The subject site has an area of 640.10 square metres (short by 9.9 square metres or 2%). This does not comply with the requirements of Clause 4.1A and a Clause 4.6 variation request has been provided with the application.

This application was submitted with a request that a '4.6 Exception to Development Standards' variation be considered due to the subject site not meeting the minimum lot size requirement, for an attached dual occupancy in an R2 zone.

Clause 4.6(3) specifies that development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.

In addition to the above, the key consideration in assessing a Clause 4.6 variation are the five (5) Land and Environmental Court Principles and demonstrated suitability of the proposal on the site and within the broader character of the area. The test for suitability is also dependent on the demonstrated compliance with the controls and objectives of the relevant development standards.

The applicant has outlined the following justification within the proposed variation request and the established court principles has been undertaken as follows:

**1. The objectives of the standard are achieved notwithstanding non-compliance with the standard.**

The objective of Clause 4.1A is "to achieve planned residential density in certain zones". The development is for a dual occupancy, permitted in the R2 Low Density Residential zone. Penrith Local Environmental Plan 2010 (nor the Standard Instrument) provide a definition for "residential density". Law Insider defines "residential density" as the number of dwelling units per gross acre of residential land area, including streets, easements and open space portions of a development. In this regard, the proposed development provides for two dwellings, being an attached dual occupancy, to a single allotment of land exclusive of streets, easements and open space. Practically, residential density can be applied through development standards in Penrith LEP 2010 such as height (as FSR is not applicable to this site) and Penrith DCP 2014, through controls such as Urban form, setbacks, building envelope and landscaped area. The submitted plans and subsequent amendments generally comply with these required built form controls. The development therefore complies with the objective of achieving "planned residential density" for the site.

**2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary.**

Clause 4.1A(2) states that "Development consent may be granted to development on a lot in a zone shown in Column 2 of the Table to this clause for a purpose shown in Column 1 of the Table opposite that zone, if the area of the lot is equal to or greater than the area specified for that purpose and shown in Column 3 of the Table", which then species that a dual occupancy (attached) in the R2 zone requires a 650 square metre lot.

The above affirms that both the objective and purpose of Clause 4.1A(2) is relevant to the proposed development but its intent has been met as outlined above.

**3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable.**

As the objective states, the objective of this Clause is to achieve planned residential density in certain zones. As discussed in point 1 above, key development standards and controls listed under Penrith LEP 2010 and Penrith DCP 2014 are complied with through the proposed development.

As such, compliance with Clause 4.1A(2) is not required in order to achieve planned residential density in certain zones.

**4. The development standard has been virtually abandoned or destroyed by Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.**

A near identical attached dual occupancy development has been previously approved under DA17/1008 on the subject site, with the same variation to minimum lot size. The current proposal and justification to vary the minimum lot size requirement is consistent with the merits of the above application. Given this, it is justifiable that compliance with the standard on this site is unnecessary and unreasonable in this instance.

**5. The compliance with the development standard is unreasonable or inappropriate due to the existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.**

The subject site is located within a well established low density residential area in Cranebrook, with the subject site being currently vacant and the last lot to be developed in Assisi Close. The character of the area is subdivided parcels of land averaging at 785.24 square metre lots (average of 21 lots along Assisi Close), zoned R2 Low Density Residential, with development including single dwellings, single dwellings with secondary dwelling and dual occupancies.

There are 4 x dual occupancy developments on Assisi Close approved under the Penrith LEP 2010. Whilst these dual occupancy sites are larger lots (above 800 square metres), it is still considered that the low density residential nature of the area will be maintained through the proposed development with limitations on dwelling size and floor area, and minimum on-site parking requirements, still applicable under the provisions of Penrith DCP 2014.

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After assessment of the submitted Clause 4.6 variation request, including the above justifications, Council staff are satisfied that the variation request has adequately addressed the matters required to be demonstrated by Clause 4.6(3), being that compliance with the Clause 4.1A development standard is unreasonable and unnecessary in this instance and that there are sufficient environmental planning grounds to justify contravening the development standard. Council staff are also satisfied that the proposed development is in the public interest, consistent with the objectives of Clause 4.1A and the objectives of the R2 Low Density Residential Zone.

As such, the 4.6 variation request made for this application is sufficient as it satisfies the objective of Clause 4.1A and Clause 4.6(3) of Penrith LEP 2010.

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

### ***Draft Environment State Environmental Planning Policy***

The Draft Environment SEPP was exhibited from 31 October 2017 to 31 January 2018. This consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland, and Willandra Lakes World Heritage Property.

Changes proposed include consolidating a total of seven existing SEPPs being:

- *State Environmental Planning Policy No. 19 – Bushland in Urban Areas*
- *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011*
- *State Environmental Planning Policy No. 50 – Canal Estate Development*
- *Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment*
- *Sydney Regional Environmental Plan No. 20 – Hawkesbury/Nepean River (No. 2 - 1997)*
- *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*
- *Willandra Lakes Regional Environmental Plan No. 1 – World Heritage Property*

It is noted that the proposed changes to State Environmental Planning Policy No. 19 – Bushland in Urban Areas (SEPP 19) are not considered to impact the proposed development. In addition, the amendments to Sydney Regional Environmental Plan No 20 – Hawkesbury/Nepean River (No. 2 – 1997) do not impact the proposed development. In this regard, the proposal is not inconsistent with the provisions of this Draft Instrument.

### ***Draft Remediation of Land SEPP***

The Department of Planning and Environment has announced a Draft Remediation of Land SEPP, which will repeal and replace the current State Environmental Planning Policy No. 55—Remediation of Land.

The proposed new land remediation SEPP will:

- Provide a state-wide planning framework for the remediation of land,
- Maintain the objectives and reinforce those aspects of the existing framework that have worked well,
- Require planning authorities to consider the potential for land to be contaminated when determining development applications and rezoning land,
- Clearly list the remediation works that require development consent, and
- Introduce certification and operational requirements for remediation works that can be undertaken without development consent.

It is also proposed that it will transfer the requirements to consider contamination when rezoning land to a direction under Section 9.1 of the Environmental Planning and Assessment Act 1979.

Whilst the proposed SEPP will retain the key operational framework of SEPP 55, it will adopt a more modern approach to the management of contaminated land. Noting the above, the Draft SEPP will not alter or affect the findings in respect to contamination of the site.

### ***Other Draft NSW Planning Legislation:***

It is noted that the Draft Vegetation SEPP and Draft Design and Place SEPP apply to the subject site. However, these do not affect or alter the recommendation of this report.

## 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 - see Appendix - Development Control Plan Compliance
C11 Subdivision	Complies
C12 Noise and Vibration	Complies
C13 Infrastructure and Services	Complies
D2.1 Single Dwellings	N/A
D2.2. Dual Occupancies	Complies - see Appendix - Development Control Plan Compliance
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 applicable to the site or area.

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

The requirements of the Regulations have been considered in the assessment of the application, with applicable conditions of consent being recommended.



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

### Context and Setting

The proposal is consistent with the existing character of other residential development in the locality. The proposal is compatible with the surrounding and adjacent land uses and will have no major impact on the amenity of the area.

### Access, Parking and Traffic

The proposal will have no adverse traffic generation impacts on the local road system. The proposed vehicle access arrangements and car parking on the site will be adequate for the proposal. See discussion under the C10 Transport, Access and Parking section of this report for more information.

### Visual and Acoustic Amenity

Appropriate setbacks are afforded to boundary lines to limit any potential visual or acoustic impacts to neighbouring properties.

### Drainage

The proposed development includes drainage being directed to existing inter-allotment drainage to which the subject site benefits. The application was referred to Council's Development Engineering, who raised no objections to the proposal subject to recommended conditions of consent.

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

The site is suitable for the following reasons:

- The proposal is permissible in the zone with Council consent.
- The use is compatible with surrounding/adjoining land uses.
- The grade of the site is suitable for the design proposed.
- The site is able to drain to Council's satisfaction.
- The proposal provides sufficient on-site parking.

## Section 4.15(1)(d) Any Submissions

### Community Consultation

The application was notified to 5 adjoining and nearby properties between 22 November 2021 and 6 December 2021, in accordance with the relevant legislation. During this period 11 unique submissions were received in response, made by 10 objectors to the development. Due to the number of unique submissions made objecting to the development, this application is referred for determination by the Local Planning Panel.

The following issues were raised in the submissions received with feedback commentary detailed below (in no particular order):

Issue Raised	Comments
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<p><b>1. Too many dual occupancies in a small and narrow cul-de-sac street</b></p> <p>There are too many dual occupancies on this street, leading to congestion issues, and this proposal will lead to further congestion issues.</p>	<p>The subject site is zoned R2 Low Density Residential and a dual occupancy is permitted in the zone with consent.</p> <p>Despite the minor variation to the minimum lot size for an attached dual occupancy, the proposal satisfies key development controls as addressed by the submitted Clause 4.6 variation request and further discussed in the DCP section of this report.</p>
<p><b>2.Excessive vehicles parked on the street and associated safety issues</b></p> <p>There are safety issues from too many cars in the street, with cars parked illegally on the footpath and nature strip, forcing pedestrians to walk on the road. There is also limited thoroughfare for cars entering and exiting the street, also having potential safety issues with children playing on the road/street at risk through poor sight-lines. The increased traffic from the development will add to the above issues.</p>	<p>The proposed development includes on-site parking for 2 x car parking spaces for each dwelling, with one space under cover for each dwelling, which complies with the car parking rates specified by Chapter C10 of the DCP.</p> <p>The proposed development will not impact on the safety issues and concerns raised. These issues appear to be separate from the proposed development. A recommendation of this report is to refer the traffic situation along Assisi Close to Council's Rangers and Traffic Engineering department for further investigation.</p>
<p><b>3. Obstruction to service vehicles</b></p> <p>A building of any type will have an impact to drivers on this street, even service vehicles (such as garbage collection) are obstructed by parked vehicles.</p>	<p>See above response to point 2.</p>
<p><b>4. Use of on-site parking</b></p> <p>Residents of dwellings and dual occupancies in the street do not use their garages and park on the street.</p>	<p>See above response to point 2.</p>

<p><b>5. Privacy and overlooking concern</b></p> <p>Unit 1's windows will impact visual privacy to properties either side.</p>	<p>The proposal includes an approximate 1.8m setback to Unit 1 bedroom 1 and the south boundary line, and an approximate 5m setback from to Unit 1 bedroom 2. These rooms are non-primary living rooms looking over the front driveway of the adjoining property to the south. As such, no visual intrusion is expected as a result.</p> <p>The proposal also includes an approximate 1.8m setback to Unit 2 bedroom 1 and the north boundary line, and an approximate 7m setback to Unit 2 bedroom 2 and the northern boundary line. The only perceived issues of visual intrusion from the Unit 2 bedroom 1 window would be to first floor windows to the neighbouring dwelling to the north. Although, given that the first floor rooms of both dwellings are non-primary living areas, the setbacks afforded, the angled nature of the proposed development, there are no expected issues of visual intrusion into the neighbouring property.</p>
<p><b>6. Amenity concerns to adjoining neighbour to the south</b></p> <p>Concern that setback of development will block the view of 8 Assisi Close from the street.</p>	<p>The proposed development includes setbacks that align with those specified under Penrith DCP, including a front setback average that aligns with adjoining properties. Suitable side setbacks have also been proposed, in excess of the development control specified in the DCP.</p>
<p><b>7. Noise impacts</b></p> <p>Noise concern from alfresco directly outside bedroom window on adjoining properties</p>	<p>The proposed positioning of both alfrescos for each dwelling and setbacks afforded to boundaries are not considered to be directly outside bedrooms of adjoining properties. As such, no significant noise impact is expected as a result of the proposed development.</p>
<p><b>8. Storm water connection</b></p> <p>Regarding the proposed connection to stormwater pit at the rear of the site, can the pit withstand this development? Will the connection impact their land?</p>	<p>The subject site benefits by an existing drainage easement through the property to the south. The proposal will connect to this existing inter-allotment drainage. Referral to Council's Development Engineering Department raised no objections to the proposed drainage arrangement. See discussion under the Likely Impacts section of this report for more information.</p>

## Referrals

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

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

### Development Engineer

The application was referred to Council's Development Engineering Department, who raised no objections to the proposed development subject to recommended conditions of consent.

### Section 4.15(1)(e)The public interest

Given the matters discussed throughout this report, the proposed development is not expected to generate any significant issues of public interest.

### Section 94 - Developer Contributions Plans

The following Section 7.11 plans apply to the site:

- Section 7.11 - District Open Space Facilities
- Section 7.11 - Cultural Facilities

The following Section 7.11 calculations apply to the proposed development.

<b>Calculation for a Dual Occupancy</b>					
<i>Open Space</i>					
No. of units	x	Rate	-	Credit for existing dwelling/s	Contribution rate
2	x	3.1	-	3.1	3.1
<i>City wide</i>					
No. of units	x	Rate	-	Credit for existing dwelling/s	Contribution rate
2	x	3.0	-	3.0	3.0
<b>AMOUNT</b>					
S.7.11 Contribution Plan	Contribution Rate x Calculation rate			Total	
District Open Space	3.1 x \$2,058.00			\$6,379.00	
Cultural facilities	3.0 x \$197.00			\$591.00	
	<b>NET TOTAL</b>			<b>\$6,970.00</b>	

## **Conclusion**

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In assessing this application against several state policies, 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**

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1. That DA21/0836 for the proposed construction of a two-storey attached dual occupancy at 6 Assisi Close, Cranebrook NSW 2749, be approved subject to the attached conditions.
2. That referral be made to Council's Traffic Engineering and Ranger departments to further investigate the concerns raised by the residents of Assisi Close in Cranebrook.

# CONDITIONS

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## General

### 1 [A001 - Approved plans table](#)

The development must be implemented substantially in accordance with the following plans stamped approved by Council below, BASIX Certificate numbered 1257151M, the application form, and any supporting information received with the application, except as may be amended in red on the approved plans and by the following conditions.

Description	Plan No.	Revision	Prepared By	Date
Cover Sheet	Project No. 2146 Drawing A0	C	Eddy Mekhail - AA Dream Homes - Client - Mr. Medhat Nabih Attia	2/02/2022
Site Plan Site Analysis	Project No. 2146 Drawing A1	C	Eddy Mekhail - AA Dream Homes - Client - Mr. Medhat Nabih Attia	2/02/2022
Ground Floor Plan	Project No. 2146 Drawing A2	C	Eddy Mekhail - AA Dream Homes - Client - Mr. Medhat Nabih Attia	2/02/2022
First Floor Plan	Project No. 2146 Drawing A3	C	Eddy Mekhail - AA Dream Homes - Client - Mr. Medhat Nabih Attia	2/02/2022
Roof Plan	Project No. 2146 Drawing A4	C	Eddy Mekhail - AA Dream Homes - Client - Mr. Medhat Nabih Attia	2/02/2022
Front Elevation (Assisi Close View), Rear Elevation	Project No. 2146 Drawing A5	C	Eddy Mekhail - AA Dream Homes - Client - Mr. Medhat Nabih Attia	2/02/2022
North Elevation, South Elevation	Project No. 2146 Drawing A6	C	Eddy Mekhail - AA Dream Homes - Client - Mr. Medhat Nabih Attia	2/02/2022
Driveway Section, Section Elevation Section -1	Project No. 2146 Drawing A7	C	Eddy Mekhail - AA Dream Homes - Client - Mr. Medhat Nabih Attia	2/02/2022
Site Analysis & Waste Management Plan	Project No. 2146 Drawing A8	C	Eddy Mekhail - AA Dream Homes - Client - Mr. Medhat Nabih Attia	2/02/2022

Erosion & Sediment Control Plan	Project No. 2146 Drawing A9	C	Eddy Mekhail - AA Dream Homes - Client - Mr. Medhat Nabih Attia	2/02/2022
Stormwater Plan	Project No. 2146 Drawing A10	C	Eddy Mekhail - AA Dream Homes - Client - Mr. Medhat Nabih Attia	2/02/2022
Landscaping Plan	Project No. 2146 Drawing A11	C	Eddy Mekhail - AA Dream Homes - Client - Mr. Medhat Nabih Attia	2/02/2022
Shadow Diagram (21st June) 9AM	Project No. 2146 Drawing A12	C	Eddy Mekhail - AA Dream Homes - Client - Mr. Medhat Nabih Attia	2/02/2022
Shadow Diagram (21st June) 12PM	Project No. 2146 Drawing A13	C	Eddy Mekhail - AA Dream Homes - Client - Mr. Medhat Nabih Attia	2/02/2022
Shadow Diagram (21st June) 3PM	Project No. 2146 Drawing A14	C	Eddy Mekhail - AA Dream Homes - Client - Mr. Medhat Nabih Attia	2/02/2022
Subdivision Plan	Project No. 2146 Drawing A15	C	Eddy Mekhail - AA Dream Homes - Client - Mr. Medhat Nabih Attia	2/02/2022
Notification Plans	Project No. 2146 Drawing A16	C	Eddy Mekhail - AA Dream Homes - Client - Mr. Medhat Nabih Attia	2/02/2022

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](#)

**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.

## Environmental Matters

5 **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).

Certification that the erosion and sediment control measures have been installed in accordance with the approved erosion and sediment control plan (s) for the development and "Managing Urban Stormwater: Soils and Construction 2004" shall be obtained and issued a minimum 2 days before any other site works are to commence, including earthworks and clearing of the site.

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**. 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.

6 **D008 - Filling compaction**

Where a building is to take place on any land that is to be filled, such filling is to be compacted in accordance with AS3798-1996. Certification is to be submitted to the Principal Certifying Authority by a Geotechnical Engineer verifying that the work has been undertaken prior to the commencement of the construction of any building.

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

7 **D Special (Dust Suppression)**

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

8 **D Special (Mud and Soil)**

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

9 **D Special (Waste Materials)**

All excavated material and other wastes generated as a result of the development are to be reused, 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.

10 **D Special (Waste Storage)**

All waste materials stored onsite 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 the areas are to be fully enclosed when the site is unattended.

## **BCA Issues**



#### 11 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).

### Utility Services

#### 12 G002 - Section 73 (not for

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

The Section 73 Compliance Certificate must be submitted to the Principal Certifying Authority prior to the issue of a Subdivision Certificate.

#### 13 G004 - Integral Energy

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

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

#### 14 G006 -

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

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

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

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

### Construction

#### 15 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.

#### 16 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).

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

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

#### 17 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 ground floor slab level.

18 [H032 - Painting](#)

Prior to the issue of an Occupation Certificate, the building is to be painted internally and externally (as applicable).

19 [H033 – Clothes line](#)

Prior to the issue of an Occupation Certificate, clothes drying facilities are to be positioned, installed and screened from public view.

20 [H036A - Rainwater Tank \(Also impose H037, H038, H039, G005 & Q010\)](#)

Each dwelling shall be provided with a rainwater tank with a minimum capacity of 6000 litres in accordance with Penrith Council's guidelines.

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.

21 [H036B - Rainwater Tank \(Also impose H037, H038, H039, G005 & Q010\)](#)

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.

22 [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.

23 [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.

24 [H039 - Rainwater tank pumps \(Also impose H036, H037 & H038\)](#)

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

25 [H Special \(BLANK\)](#)

All retaining walls are to be of masonry construction. Where cut-and-fill occur as part of the development, appropriate battering shall be provided along each side boundary interface with adjoining properties (where appropriate).

26 [H Special \(BLANK\)](#)

As specified on the title of the land, the dwellings shall be constructed in a manner as follows:

1. Compliance with AS 2107-2000 (Recommended Design Sound Levels and Reverberation Times for Building Interiors, and generally in accordance with the below table:

**Traffic Noise Impact Criteria**

Space/Activity Type	Recommended Internal Design Noise Level
House near major roads - Sleeping Areas	35 dB(A) Leq (9 hour)
House near major roads - Other Habitable Areas	40 dB(A) Leq(15 hour)

2. Compliance with the acoustic construction treatments contained in Table 3 of the Acoustic Assessment prepared by Acoustic Logic (ref 20130425.1/2806A/R1/YK, Rev 1 dated 28/6/2013), generally in accordance with the below table:

**Recommended Glazing Constructions**

Lot	Facade	Glazing Requirements	Acoustic Seals
20 & 21	West & North	6.38mm laminate	Yes
~	South & East	6mm toughened	Yes

## Engineering

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

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

28 [K201 - Infrastructure Bond](#)

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

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

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

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

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

- a) Vehicular crossing (including kerb reinstatement of redundant vehicular crossings).

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. The driveway crossover shall be perpendicular with its respective edges and shall be a minimum 6 metres in width.

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

Note:

- Where Penrith City Council is the Certifier for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate or Subdivision Works Certificate.
- Separate approval may be required from Transport for NSW for classified roads.
- All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate or Subdivision Certificate as applicable.
- 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.

#### 30 [K209 - Stormwater Discharge - Minor Development](#)

Stormwater drainage from the site shall be discharged to the interallotment drainage line. The stormwater lines from the development shall connect to a junction pit within the property boundary, before connecting to the existing drainage easement via one pipe connection only.

The stormwater drainage system shall be designed in accordance with Penrith City Council's Stormwater Drainage Specification for Building Developments. The design shall ensure that the development has no adverse impact on adjoining properties by the diversion, damming or concentration of stormwater flows.

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

#### 31 [K501 - Penrith City Council Clearance - Roads Act / Local Government Act](#)

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

## Landscaping

### 32 L001 - General

All landscape works are to be constructed in accordance with the stamped approved plans and Chapter C6 Landscape Design of Penrith Development Control Plan 2014.

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.

### 33 L006 - Aust Standard

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

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

### 34 L008 - Tree Preservation

No trees are to be removed, ring barked, cut, topped or lopped or wilfully destroyed (other than those within the proposed building footprint or as shown on the approved plans) without the prior consent of Penrith City Council and in accordance with Part C, C2 Vegetation section of Penrith Development Control Plan 2014.

### 35 L Special (BLANK)

Prior to the issue of an Occupation Certificate, the existing street tree shall be transplanted to a suitable new location in the front verge of the site. If found not to be a viable option, a replacement street tree shall be planted within the front verge of the site. The new street tree shall be the same species, height (already matured) and pot size to the existing street tree. The tree shall be planted in accordance with Penrith Council's Street and Park Tree Management Plan.

See below links for more information:

- [https://www.penrithcity.nsw.gov.au/images/documents/waste-environment/environment/StreetParkTreeManagementPlan\\_2019\\_Elizabeth\\_Oct%202019.pdf](https://www.penrithcity.nsw.gov.au/images/documents/waste-environment/environment/StreetParkTreeManagementPlan_2019_Elizabeth_Oct%202019.pdf)
- <https://www.penrithcity.nsw.gov.au/images/documents/waste-environment/environment/Street%20and%20Park%20Tree%20Management%20Plan%20Appendix%20final%20dra>

For more information on street tree requirements, please contact Penrith Council's Asset Management Department on (02) 4732 7777.

### 36 L Special (BLANK)

**Prior to the issue of an Occupation Certificate**, a minimum of two native trees (minimum 75-litre pot size) with a mature height of no less than 8 metres shall be planted in a position along/near the rear boundary of each dwelling. Complementary under-storey shrub planting shall also be planted along the rear boundary of each dwelling within a landscape strip of at least 1m. In addition, shrub planting along the side boundary fence lines opposite the alfresco areas of both dwellings is required to be planted as marked in red on the stamped approved plans.

## Subdivision

### 37 M008 - Subdivision Certificate requirements

**Prior to the issue of the Subdivision Certificate**, the following is to be submitted:

An original plan of subdivision and associated administration sheets. The plan of subdivision must indicate, where relevant -

- All drainage easements, rights of way, restrictions and covenants.
- All proposed dedications of roads/drainage/public reserve, which are to be undertaken at no cost to Penrith City Council.

The following information is to be shown on one (1) copy of the plan.

- The location of all buildings and/or other permanent improvements shall comply with any statutory boundary clearances or setbacks as defined by the Building Code of Australia and Council's resolutions.
- All existing services are wholly contained within the lot served and/or covered by an appropriate easement

**A Strata Certificate** shall be obtained from the Principal Certifier prior to lodgement of the strata plan with NSW Land Registry Services. The Strata Certificate will not be issued if:

- (a) any of the conditions in this consent issued for the building on the land are outstanding, and
- (b) if the Final Occupation Certificate for the building, the subject of the strata plan, has not been issued.

**Prior to lodgement / issue of a Subdivision Certificate , street address numbering must be obtained/approved by Penrith City Council's Rates Team. Proposed street addresses can be forwarded to council@penrith.city for approval.**

## Development Contributions

### 38 N001a - Section 7.11 contribution (Cultural Facilities)

This condition is imposed in accordance with Penrith City Council's Section 7.11 Contributions Plan for Cultural Facilities Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$591.00 is to be paid to Council prior to a Construction Certificate being** issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 7.11 Contributions plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The S7.11 invoice accompanying this consent should accompany the contribution payment. The Section 7.11 Contributions Plan for Cultural Facilities may be inspected at Council's Civic Centre, 601 High Street, Penrith.

**Note:** The timing of contributions payable may be otherwise affected in accordance with Planning Circular PS20-003 dated 3 July 2020 and the associated NSW Government Ministerial Direction - Infrastructure Contributions.

### 39 N001b - Section 7.11 contribution (District Open Space)

This condition is imposed in accordance with Penrith City Council's Section 7.11 Contributions Plan for District Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$6,379.00 is to be paid to Council prior to a Construction Certificate being** issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 7.11 Contributions plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The S7.11 invoice accompanying this consent should accompany the contribution payment. The Section 7.11 Contributions Plan for District Open Space may be inspected at Council's Civic Centre, 601 High Street, Penrith.

**Note:** The timing of contributions payable may be otherwise affected in accordance with Planning Circular PS20-003 dated 3 July 2020 and the associated NSW Government Ministerial Direction - Infrastructure Contributions.

## Certification

40 [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 1979, 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 of 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.

41 [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 C - City-wide Controls

#### C10 Transport, Access and Parking

Table C10.2: Car Parking Rates specifies that for dual occupancy development the parking requirement is 2 spaces per dwelling with stack or tandem parking acceptable.

The proposed dual occupancy includes two dwellings in an attached arrangement, each with a single integrated garage and room on the driveway for each dwelling. As such, the minimum requirement of 2 spaces per dwelling are provided, complying with Australian Standards and providing an undercover parking space for each dwelling.

It is acknowledged that several submissions have been received raising concern for traffic, access and parking along Assisi Close. Whilst it is not expected that the proposed development will have any negative impact in this regard, it is recommended that the concerns raised by the community be referred to Council's Rangers and Traffic Engineering Department for further investigation.

### D2 Residential Development

#### 2.2.1 Residential Character

The proposed scale of development and its built form is characteristic of similar development along Assisi Close and in the vicinity.

#### 2.2.4 Urban Form

The proposed dual occupancy includes both dwellings facing the street and display a traditional orientation with a semi-detached configuration and an individual architectural appearance for each dwelling (that is non-symmetrical). All building forms and facades are articulated through different design measures.

#### 2.2.5 Front and Rear Setbacks

Despite the unusual shape of the subject lot and site, the application has been assessed as providing appropriate setback, as discussed below:

- An appropriate front setback of 5.5m is provided to the front building line of Unit 1, and a 5.940m front setback to the front building line of Unit 2. There is a front setback of 6.570m to the integrated garages for each dwelling, and an appropriate 1.2m encroachment of the front porch of each dwelling within the front setback area.
- For the rear setback, only a small portion of ground floor external wall has a rear setback of 3.295m to the rear boundary (for a 1.5m section), where as after this an increasing rear setback range of 4m to 9.7m is provided. The rear setback on the first floor is in excess of 6m. Given the unusual allotment shape of the site and noting that the subject site backs onto a large school site, the proposed rear setbacks are considered to be suitable in instance.

#### 2.2.6 Building Envelope and Side Setbacks

- As mentioned throughout this report, the subject site has an irregular allotment shape resulting in varied setbacks along each boundary line that are in excess of required development controls. In demonstrating that the development complies with the building envelope for the site, the applicant has provided several building envelope perspectives from the porch line, building line and rear line envelope, which demonstrate an appropriate building envelope for the site with only minor encroachments through eaves which is considered appropriate for the site's context.
- The proposal includes stepping through its built form in line with the site's existing

topography with floors no higher than 1m off natural ground level, with cut-and-fill reaching no more than 580mm in some areas of the site. Given the sloped nature of the site, context and cut-and-fill shown in the Cut-and-Fill Plan, this is considered to be suitable in this instance. A condition of consent is recommended to ensure that suitable batters are provided between neighbouring side boundary lines, which is viable given the side setbacks proposed.

- The minimum 900mm side setback is achieved, with side setbacks to both side boundaries ranging from 1.4m to 4.9m in some sections of the built form.

### **2.2.8 Landscaped Area**

- A provision of 54.37% landscaping is afforded by the development.
- The submitted plans make reference to tree removal toward the middle-rear portion of the site. Site inspection to site and review of historical aerial imagery observed these trees appeared to have been removed several years ago. In addition to the applicant's proposed landscaping and planting plan, a condition of consent is recommended that a mix of trees and shrubs be planted along the rear boundary for each dwelling private open space area to replenish any loss of vegetation that may have occurred during the subdivision stages of development in this area.

### **2.2.9 Solar Planning**

The orientation of the lot and development affords the minimum required solar access for the primary living areas and private open spaces areas for the proposed dual occupancy and also those of adjoining sites.

### **2.2.14 Design of Dwellings and Private Courtyards**

Each dwelling provides in excess of the required 30sqm size private open space with a 6m x 4m area suitable for dining.

### **2.2.18 Fences and Retaining Walls**

Appropriate fencing and retaining walls are proposed through the development. Recommended conditions of consent are included to ensure their suitable construction.

### **2.2.19 Visual and Acoustic Privacy and Outlook**

The proposal includes an approximate 1.8m setback to Unit 1 bedroom 1 and the south boundary line, and an approximate 5m setback from to Unit 1 bedroom 2. These rooms are non-primary living rooms looking over the front driveway of the adjoining property to the south. As such, no visual intrusion is expected as a result.

The proposal also includes an approximate 1.8m setback to Unit 2 bedroom 1 and the north boundary line, and an approximate 7m setback to Unit 2 bedroom 2 and the northern boundary line.

The only perceived issues of visual intrusion from the Unit 2 bedroom 1 window would be to first floor windows to the neighbouring dwelling to the north. Although, given that the first floor rooms of both dwellings are non-primary living areas, the setbacks afforded, the angled nature of the proposed development, there are no expected issues of visual intrusion into the neighbouring property.

As such, appropriate setbacks are afforded to boundary lines to limit any potential visual or acoustic impacts to neighbouring properties.