

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA13/1490
Proposed development:	Residential - New Second Occupancy (Detached Dual Occupancy)
Property address:	169 - 175 Church Street, CASTLEREAGH NSW 2749
Property description:	Lot 8 DP 227370
Date received:	23 December 2013
Assessing officer	Mahbub Alam
Zoning:	ZONE NO 1(B)(RURAL B ZONE - SMLHLDGS) (LEP 201)
Class of building:	Class 1a
Recommendations:	Approve

Executive Summary

Council is in receipt of a development application for a detached dual occupancy at 169 – 175 Church Street Castlereagh. Under *Penrith Local Environmental Plan 201 (Rural Lands)*, the site is zoned 1(b) (Rural B Zone - Smallholdings) and the proposed dual occupancy is permitted in the zone with Council consent.

The site is also affected by *Penrith Local Environmental Plan 1991 (Environmental Heritage Conservation)*. As such the application has been considered by Council's Heritage advisor and an impact assessment against key heritage considerations is contained later in this report.

The site contains Shale / Gravel Transition Forest. No vegetation will be removed as a result of this development.

The site is bushfire prone land and a Bushfire report has been reviewed by Council's Health and Building officers. Subject to conditions, the dwelling at a BAL 12.5 rating and current APZ zones under *Planning for Bushfire Protection Policy 2006*, is adequate for the purpose of Section 79BA of the *Environmental Planning & Assessment Act 1979*.

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

Site & Surrounds

The subject site is situated on the Northern side of Church Street, approximately 200m from the intersection of Church Street and Church Lane. The site is 2.027 hectares in area and orientated in an East West direction.

The site is currently occupied by a single storey brick dwelling and small scale market gardens.

The surrounding area is characterised by similar rural residential development. The proposal is consistent with the surrounding rural uses.

Proposal

The proposed development includes the following aspects:

- Construction of a detached dual occupancy;
- OSSM System; and
- Associated landscaping.

Plans that apply

- Penrith Local Environmental Plan No.201 (Rural Lands)
- Development Control Plan 2006
- 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

• Section 79BA - Bushfire prone land assessment

Pursuant to Section 79BA of the *Environmental Planning & Assessment Act 1979*, the subject site is considered to be Bushfire Prone Land. A Bushfire Attack Level assessment has been carried out by a consultant planner. There is no evidence the consultant is accredited however the report appears to be in accordance with the provisions of *Planning for Bushfire Protection (PBP)* and AS 3959-2009. Notwithstanding, to ensure consistency, the application was referred to Council's Health and Building Surveyors who utilised internal bushfire specialist staff to undertake a review of the assessment report. Council staff were satisfied with the assessment and deemed that a BAL 12.5 rating.

A condition of development consent is recommended to require construction of the dwellings be to BAL 12.5 rating under AS 3959-2009 and the PBP Policy 2006.

• Section 79C - Evaluation

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

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

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

SEPP (BASIX) 2004 aims to encourage sustainable residential development and all new dwellings must comply with the provisions of the policy.

A BASIX Certificate has been submitted with this application. A condition is recommended to ensure that the commitments in the BASIX Certificate are maintained throughout the life of the dwelling.

State Environmental Planning Policy No 55—Remediation of Land

An assessment has been undertaken of the application against relevant criteria with State Environmental Planning Policy No 55—Remediation of Land. The site has a history of residential and market gardening land use. A soil test report was submitted with this application and the report was reviewed by Council's Environmental Department and raised no objection.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

SREP No. 20 applies to the subject land and stipulates that the consent authority shall not grant consent to an application unless it is of the opinion that the carrying out of the development is consistent with any relevant, general and specific aim of SREP 20.

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. The proposal will have minimal impacts and will not compromise the water or scenic qualities of the river environment given the drainage arrangements and erosion and sediment control measures to be employed during the construction phase of the development, and such requirements will be reinforced by conditions.

Penrith Local Environmental Plan No.201 (Rural Lands)

Provision	Compliance
Clause 2 - Aims, objectives etc	Complies - See discussion
Clause 9 - Permissibility	Complies - See discussion
Clause 9 - Objectives of the zone	Complies - See discussion
Clause 10 - Subdivision generally	N/A
Clause 11 - Subdivision within Zones Nos 1 (a), 1 (b), 1 (c), 5 (d) and 7	N/A
Clause 12 Erection of dwelling houses	Complies
Clause 13 Erection of dwelling-houses on land included in Schedule 2	N/A
Clause 14 Rural workers' dwellings within Zone No 1 (a) or 7	N/A
Clause 15 Rural/residential development within Zone No 1 (c)	N/A
Clause 16 Development within Zone 7 (Environment/Scenic Protection)	N/A
Clause 17 - Tree preservation	Complies - See discussion
Clause 18 - Convenience and general stores	N/A
Clause 19 Development of land within Zones Nos 1 (a), 1 (b) and 1 (c) near designated roads	N/A
Clause 20 Flood liable land	Complies - See discussion
Clause 21 Provision of services	Complies - See discussion
Clause 23 Assessment of development in Zone No 6 (a)	N/A
Clause 24 Acquisition of land within Zone No 5 (b)	N/A
Clause 25 Acquisition and development of land reserved for roads	
Clause 26 Acquisition and development of land within Zone No 5 (d)	N/A
Clause 27 Development of land within Zones Nos 5 (b) and 6 (a)	N/A
Clause 28 Development near the boundary of adjoining zones	N/A
Clause 29 Community use of school sites etc	N/A
Clause 30 Extractive industries	N/A

Clause 31 Airport noise	N/A
Clause 32 Development of certain land off Horsley Road, Mt Vernon	N/A
Clause 32A Development of certain rural residential land at Mt Vernon	N/A
Clause 33 Waste disposal	Complies - See discussion
Clause 33A Waste disposal on land near Sydney West Airport	
Clause 34 Detached dual occupancy within Zones Nos 1 (b) and 1 (c)	Complies - See discussion
Clause 35 Development of certain land at Badgerys Creek	N/A
Clause 36 Development of certain land at Mamre Road, Luddenham	N/A
Clause 37 Development of certain land adjacent to The Northern Road, Luddenham	N/A
Clause 38 Development of certain land at Erskine Park	N/A
Clause 39 Development of certain land at Berkshire Park	N/A
Clause 40 Development of certain land at North Cranebrook	N/A
Clause 41 Development of certain land at Llandilo	N/A
Clause 42 Development of certain land at Mamre Road, Kemps Creek	N/A
Clause 43 Development of certain land at Elizabeth Drive, Luddenham	N/A

Permissibility

The subject site is zoned 1b – Rural smallholdings under LEP 201 (Rural Lands). The proposed development is defined as dual occupancy development, which is permissible with the consent of Council subject to a 2ha lot minimum.

LEP and Zones Objectives

The proposed development is consistent with the aims and objectives of both the LEP and the zone itself.

Erection of dwelling houses (Clause 12)

The erection of a dwelling house in the 1(b) – Rural smallholdings zone is permitted with Council consent on existing allotments which is the case for this site.

Tree Preservation (Clause 17)

The site contains Shale / Gravel Transition Forest. No vegetation will be removed as a result of this development.

Flood liable land (Clause 20)

The site is not identified as being liable to flooding in accordance with Chapter 2.10 of the Penrith Development Control Plan 2006. This application was referred to Council's Development Services Engineer and raised no objection.

Provision of services (Clause 21)

Services already exist on the site for the single-storey dwelling. Additional amplification and reticulation may be required and conditions requiring evidence from water and energy suppliers confirming that the site is able to service the proposed dual occupancy have been recommended.

Waste disposal (Clause 33)

The septic disposal area has been demonstrated to the subject the site. These plans were referred to Council's Environmental Health Department where the responsible officer has assessed the size of the disposal area and the location of the tank to be achievable subject to conditions of consent.

Detached dual occupancy (Clause 34)

This clause permits dual occupancies if the proposal results in no more than two dwellings. Given there is an existing dwelling and the proposal is for an additional dwelling, this clause will be satisfied.

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

Draft Planning Proposal – City wide Local Environmental Plan

The proposed development is consistent with the aims and objectives of the draft planning proposal.

The site is intended to be zoned RU4 which still permit the proposed development.

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

Development Control Plan 2006

Provision	Compliance
Chapter 4.9 - Rural development	Complies - see Appendix - Development Control Plan Compliance

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

The development has been lodged and assessed in accordance with the *Environmental Planning & Assessment Regulation 2000*. Council's Health and Building Surveyor has reviewed the proposal and raises no objection subject to conditions which require Construction Certification prior to the commencement of works an Occupation Certificate prior to use of the dwelling. As such, the provisions of the regulations have been satisfied.

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

Built and Natural Environment

- The proposed dual occupancy will be located within a suitable area on the site and is responsive to its context and setting. Therefore it will have minimal impact on the locale.
- The development will not impact on the natural resources of the land. The development is suitably supported by management measures in this regard (i.e. sewer management, stormwater management, sediment and erosion control, etc).
- The development is unlikely to incur any additional acoustic impacts beyond those which are expected by a residential development.
- The development will have no adverse impact on the public domain.
- The design of the proposed dwelling is of high quality and will suitably integrate with the existing built form on the site and its surrounds.
- The development will benefit from existing access provisions and subject to conditions, the development will have no impact on the existing vehicle and traffic movement in the locality.
- The development will require special construction requirements in accordance with AS 3959-2009 to ensure minimal threat to life as a result of bushfire. This requirement will form conditions of development consent.

Social and Economic

- The proposal will not have any negative socio-economic impacts.
- The proposal will not threaten the local community's desired future character of the area as it is a permissible development in the zone and the neighbour notification process did not give rise to community concerns.

Heritage conservation

- The subject site is affected to contain a heritage item or be located within a heritage conservation area. The level of significance is Local and consideration to the listed items (NSW State Heritage Register) has revealed the development is unlikely to have adverse impact on the items or conservation values of the area.

The proposed development has been considered by Councils Heritage advisor and satisfies the relevant clauses of Penrith LEP 1991 (Environmental Heritage Conservation).

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

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

Penrith Local Environmental Plan 201 (Rural Lands), the site is zoned 1(b) (Rural B Zone - Smallholdings)

- The proposal is a permissible land use in 1(b) (Rural B Zone - Smallholdings) under the provisions of LEP 201 (Rural Lands). It is consistent with the LEP 2010 and zone objectives.
- The proposal is consistent with the objectives of DCP 2006.
- The proposal complies with the majority of the numerical requirements.
- The proposal would have a negligible impact on the amenity of the surrounding developments.

Section 79C(1)(d) Any Submissions

Community Consultation

In accordance with *Section 2.7 Notification and Advertising of Penrith DCP 2006*, this application was notified to nearby owners and occupiers of adjoining properties who were invited to inspect the proposal from 09 January 2014 to 24 January 2014. Council received no submissions in relation to the proposal.

Referrals

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

Referral Body	Comments Received
Building Surveyor	No objections - subject to conditions
Development Engineer	No objections - subject to conditions
Environmental - Environmental management	No objections - subject to conditions
Heritage	No objections - subject to conditions

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

The proposed development makes good economic use of the land by providing a dual occupancy development without compromising existing rural land uses and rural character. Additionally, the application was notified and no objections were raised and therefore, the proposal is not contrary to the public interest or locally in a broader sense.

The proposal is considered to suitably fit the locality and the site attributes are conducive to the development.

Section 94 - Developer Contributions Plans

The following Section 94 contribution plans apply to the subject site:

- § Cultural Facilities
- § District Open Space
- § Local Open Space

The following Section 94 calculations apply to the proposed development.

CALCULATION					
Proposal					
Dual Occupancy					
No. of units	x	Rate	-	Credit for existing dwelling/s	Total
<u>2</u>	x	6.2	-	3.1	3.1
<u>2</u>	x	6.0	-	3.0	3.0

AMOUNT		
S.94 Contribution Plan	Contribution Rate x Calculation rate	Total
Cultural Facilities	3 x \$133.00	\$399.00
District Open Space	3.1 x \$1,797.00	\$5,571.00
Local Open Space	3.1 x \$650.00	\$2,015.00
NET TOTAL		\$7,985.00

Conclusion

The proposed development is generally consistent with the provisions of Penrith *LEP 201* and DCP 2006 and where a variation is sought, it is well justified and worthy of support. The development has been assessed having regard to the heads of consideration under the *Environmental Planning & Assessment Act 1979* which satisfactorily demonstrates the development is responsive to the natural features of the site and suitably conserves the rural character. Having regard to the merits of the application, it is worthy of support and recommended for approval.

Recommendation

That DA13/1490 for residential development – dual occupancy at 169-175 Church Street Castlereagh, be approved subject to the attached conditions (Development Assessment Report Part B).

General

1 A001

The development must be implemented substantially in accordance with the following plans

Drawing Title	Drawing No.	Prepared By	Dated
Floor Plan, Elevations and Section	PYR 437 (Issue A, Sheet Number 1 of 2)	Pyramid Design and Drafting	23/10/2013
Site Plan, Concept Landscape Plan and Elevations	PYR 437 (Issue B, Sheet Number 2 of 2)	Pyramid Design and Drafting	19/02/14
Colour Selection	-	-	-
BASIX Certificate	520177S	-	13 December 2013
Onsite Wastewater Management Report	REF-106313-C	Envirotech, Environmental and Engineering Consultancy Services	1 April 2014

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 carport, garage, shed, rural shed, swimming pool and the like}.

3 A009 - Residential Works DCP (no specific section)

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

4 A019 - OCCUPATION CERTIFICATE (ALWAYS APPLY)

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

5 A020 - Use of building

The building shall not be used for commercial or industrial activities.

6 A041 - CONSTRUCTION IN BUSHFIRE AREAS

The dwelling shall be constructed in accordance with the provisions of the "Planning for Bushfire Protection" December 2006, and to a BAL 12.5 construction in accordance with AS3959 - 2009.

Details of construction methods shall be indicated on the plans for a Construction Certificate to demonstrate compliance.

7 A046 - Obtain Construction Certificate before commencement of works

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

8 A Special (BLANK)

A Waste Management Plan will be submitted and approved by Principal Certifying Authority prior to issue of a Construction Certificate.

Demolition

9 B004 - Dust

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

10 B005 - Mud/Soil

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

11 B006 - Hours of work

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 work is permitted on Sundays and Public Holidays.

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

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

Heritage/Archaeological relics

12 C Special BLANK

If relics are discovered during construction or operation, works should cease immediately and the Heritage Branch contacted. At that time, the Heritage Branch may request an archaeological assessment before any further work can commence.

Environmental Matters

13 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).

14 D002 - Spraygrass

All land that has been disturbed by earthworks is to be spray grassed or similarly treated to establish a grass cover.

15 D005 – No filling without prior approval (may need to add D006)

No fill material is to be imported to the site without the prior approval of Penrith City Council in accordance with Sydney Regional Environmental Plan No.20 (Hawkesbury- Nepean River) (No.2-1997). No recycling of material for use as fill material shall be carried out on the site without the prior approval of Council.

16 **D006 - No filling without prior approval (Use always, except for bulk earthworks/ major fill operations)**

No fill material shall be imported to the site until such time as a Validation Certificate (with a copy of any report forming the basis for the validation) for the fill material has been submitted to, considered and approved by Council. The Validation Certificate shall:

- state the legal property description of the fill material source site,
- be prepared by an appropriately qualified person (as defined in Penrith Contaminated Land Development Control Plan) with consideration of all relevant guidelines (e.g. EPA, ANZECC, NH&MRC), standards, planning instruments and legislation,
- clearly indicate the legal property description of the fill material source site,
- provide details of the volume of fill material to be used in the filling operations,
- provide a classification of the fill material to be imported to the site in accordance with the Environment Protection Authority's "Environmental Guidelines: Assessment, Classification & Management of Non-Liquid Wastes" 1997, and
- (based on the fill classification) determine whether the fill material is suitable for its intended purpose and land use and whether the fill material will or will not pose an unacceptable risk to human health or the environment.

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

If the Principal Certifying Authority or Penrith City Council is not satisfied that suitable fill materials have been used on the site, further site investigations or remediation works may be requested. In these circumstances the works shall be carried out prior to any further approved works.

17 **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.

18 **D010 – Appropriate disposal of excavated or other waste**

All excavated material and other wastes generated as a result of the development are to be re-used, recycled or disposed of in accordance with the approved waste management plan.

Waste materials not specified in the approved waste management plan are to be disposed of at a lawful waste management facility. Where the disposal location or waste materials have not been identified in the waste management plan, details shall be provided to the Certifying Authority as part of the waste management documentation accompanying the Construction Certificate application.

All receipts and supporting documentation must be retained in order to verify lawful disposal of materials and are to be made available to Penrith City Council on request.

BCA Issues

19 **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).

20 **E005 - Smoke detectors-interconnect**

The smoke alarms shall be interconnected so that the sounding of the alarm in one detector activates the alarm in all detectors.

Health Matters and OSSM installations

21 [F011 - Septic-general \(applies to all systems\)](#)

i. All house sewer and plumbing work shall be carried out in accordance with Sydney Water's requirements or the Local Government (Water, Sewerage and Drainage) Regulation 1993.

ii Penrith City Council is both the consent authority and certifying authority for the installation of the On Site Sewage Management System (OSSM), otherwise known as a septic tank system. It is your responsibility to contact Council's Building Approvals and Environment Protection Department to organise all inspections required for the installation of the system. In this regard, the following will require inspection:

- All drainage lines, wastewater treatment tanks and effluent disposal systems before they are backfilled.
- On completion of the system's installation and prior to its commissioning, ensuring compliance with those conditions specific to the installation of the system.

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

iii The wastewater treatment tanks, drainage lines and effluent disposal areas shall not be altered without the prior approval of Council.

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

v There shall be available all year round, adequate water supply that is available to the property.

Utility Services

22 [G003 - Section 73 Certificate for single rural dwellings & dual occs only](#)

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

The Section 73 Compliance Certificate must be submitted to the Principal Certifying Authority before an Occupation Certificate is issued for the development.

23 [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.

Construction

24 H001 - Stamped plans and erection of site notice

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

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

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

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

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

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

25 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.

26 H014 - Slabs/ footings

Residential slabs and footings shall be designed and certified by a qualified practising Structural Engineer or a suitably qualified person in accordance with the requirements of AS2870-1996 "Residential Slabs and Footings". Details are to be provided for consideration and approval prior to the issue of a Construction Certificate.

27 [H015 - Termites](#)

Details of the proposed termite management system shall be submitted for consideration and approval prior to the issue of a Construction Certificate. Council recommends that consideration be given to protection against subterranean termites in situations where termite resistant construction is used.

28 [H024 - Glass installations AS1288](#)

Glass installations within the building shall comply with AS 1288 and the Building Code of Australia. On completion of the glass installation, a report shall be submitted certifying compliance with AS 1288.

29 [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.

30 [H18F - Timber framework](#)

All timber frame work shall comply with AS1684-1999 "Residential Timber-Framed Construction."

Engineering

31 [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 the following works:

- a) Provision of a vehicular crossing.
- b) Opening the road reserve for the provision of services including stormwater.

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).

32 [K208 - Stormwater Discharge \(Minor Development\)](#)

Stormwater drainage from the site shall be discharged to:

- a A level spreader system

The proposed development and stormwater drainage system shall be designed to ensure no adverse impact on adjoining properties by the diversion, damming or concentration of stormwater flows.

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

33 [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

34 L001 - General

All landscape works are to be constructed in accordance with the stamped approved plan and Penrith Council's Development Control Plan 2006.

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.

35 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.

36 L008 - Tree Preservation Order

No trees are to be removed, ringbarked, cut, topped or lopped or wilfully destroyed (other than those within the proposed building footprint or as shown on the approved plans) without the prior consent of Penrith City Council and in accordance with Council's Tree Preservation Order and Policy.

37 L012 - Existing landscaping (for existing development)

Existing landscaping is to be retained and maintained at all times.

Section 94

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

This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan(s) for **Cultural Facilities**. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$399.00** is to be paid to Council **prior to a Construction Certificate being issued for this development** (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

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

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

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

This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan(s) for **District Open Space**. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$5,571.00** is to be paid to Council **prior to a Construction Certificate being issued for this development** (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

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

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

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

This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan(s) for **Local Open Space**. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$2,015.00** is to be paid to Council **prior to a Construction Certificate being issued for this development** (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

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

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

Payment of Fees

41 **P001 - Costs**

All roadworks, dedications and drainage works are to be carried out at the applicant's cost.

42 **P002 - Fees associated with Council land (Applies to all works & add K019)**

An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Council's Public Infrastructure Assets. The bond is to be lodged with Council **prior to the issue of a Construction Certificate**. The bond is based upon the estimated value of the works with a bond of **\$2,500** payable for the subject development.

The bond is refundable once a final inspection has been carried out by Council's Works Department and the works have been completed to Council's satisfaction. The bond may be used to repair or reinstate any damage that occurs to Council's Public Infrastructure Assets as a result of the development works.

Contact Council's City Works Department on 4732 7777 or visit website to obtain the form and request for final inspection.

Certification

43 **Q010 - BASIX Certificate (dont use anymore)**

The commitments listed in the BASIX Certificate for the dwelling, and forms part of the development consent, is to be maintained during the life of the dwelling. Where the commitments require replacement, the replacement must be identical to or is at a higher star rating to that listed in the BASIX Certificate.

44 **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.

Operation of OSSM

45 **R101 - Operational Approval prior to use**

Except as provided for by the conditions for this consent the on-site sewage management (OSSM) system shall be installed and operated in accordance with the recommendations contained in the Wastewater Report (prepared by EnviroTech dated 1 April 2014, ref.106313-C), and the conditions of this consent.

Prior to the issue of the Occupation Certificate and before the OSSM system can be used, an 'Approval to Operate' for the OSSM system is to be sought from and issued by Penrith City Council.

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

Wastewater generated by the residence proposed to be constructed on the site is to be diverted to an Ultra Clear ST10 aerated wastewater treatment system installed to specifically treat all wastewater from the proposed residence.

The effluent from both the proposed and the existing residences is to be disposed of by way of sub-surface drip irrigation in approved effluent management areas.

The effluent management areas are to be located in accordance with an Effluent Management Area Plan (Installation Plan) specifically approved for the purposes of this condition by Penrith Council.

The applicant shall arrange for the preparation and then the presentation of the Effluent Management Area plan (Installation Plan), for approval, to Penrith Council.

The submitted Effluent Management Plan (Installation Plan) shall be drawn to scale and show all relevant features, with dimensions related to the size and location of effluent disposal areas specified. The Plan shall also satisfactorily demonstrate that there will be compliance with the following features:-

- a minimum area of 414 m² sub-surface drip irrigation to be installed for the existing residence.
- a minimum area of 622 m² sub-surface drip irrigation to be installed for the proposed residence.
- a minimum reserve area of 206 m² sub-surface drip irrigation to be designated for the existing residence.
- a minimum reserve area of 311 m² sub-surface drip irrigation to be designated for the proposed residence.
- compliance with the buffer distances as set out in Table 2 of Penrith City Council's On-Site Sewage Management and Grey Water Reuse Policy.
- a 20 metre buffer distance between any area used for market gardening and an area where sub-surface drip irrigation has been installed for the disposal of treated effluent.

The requirement for a twenty metre buffer distance from an area used for market gardening is not applicable with respect to a designated reserve area unless effluent disposal is implemented in the reserve area. If the reserve area is implemented for subsurface effluent disposal then any market gardening activities within 20 metres of the reserve area shall cease. If the reserve area is implemented for effluent disposal by way of spray irrigation then any market gardening activities within 40 metres of the reserve area shall cease.

The Effluent Management Plan shall be approved by Penrith Council before the Construction Certificate issues.

The on-site sewage management system, including the aerated wastewater treatment tanks and the effluent management areas are to be installed and managed in accordance with the:

- "Environmental and Health Protection Guidelines: On-Site Sewage Management for Single Households"
- Australian Standards AS 1547:2012,
- Penrith Council's On-Site Sewage Management and Greywater Reuse Policy,
- The Wastewater Report (prepared by Envirotech and dated 1 April 2014), and the Effluent Management Area Plan to be approved by Penrith Council .

The Ultra Clear ST10 aerated wastewater treatment system is to be utilised for the 5 bedroom dwelling to be constructed in accordance with the Wastewater Report (prepared by Envirotech, date 1 April 2014, ref 106313-C). Any proposed dwelling approval on the site greater than this may require a new wastewater report for Council's consideration.

47 **R103 - Council inspections for Installation**

Penrith City Council is both the consent authority and certifying authority for the installation of the On-Site Sewage Management System (OSSM). **It is your responsibility to contact Council's Development Services Department to organise all inspections required for the installation of the system.** In this regard, the following will require inspection:

- All drainage lines, treatment tanks and irrigation lines before they are backfilled.
- On completion of the system's installation and prior to its commissioning, ensuring compliance with those conditions specific to the installation of the system.

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

48 **R104 - No alterations without approval**

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

49 **R105 - Plumbing Code of Australia**

All house sewer and plumbing work shall be carried out in accordance with the Plumbing Code of Australia.

50 **R107 - AWTS - Irrigation pipework (surface or sub-surface)**

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

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

Sub surface -

- sub-surface drip irrigation lines are also to be installed in accordance with AS 1547:2012 and are to evenly distribute treated effluent over the designated disposal area, and
- all subsurface drip irrigation is to be buried within a minimum of 250mm of topsoil in accordance with AS 1547:2012. Mulch is not to be used as part of the minimum top soil requirement.

51 **R109 - No effluent runoff**

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

52 **R110 - EMA Signage**

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

53 **R111 - AWTS Servicing**

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

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

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

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

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

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

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

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

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

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

54 **R114 - EMA Turfed**

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

55 **R115 - No structures on EMA**

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

56 **R116 - Diversion of stormwater from EMA**

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

57 **R117 - No plants for human consumption within EMA**

Orchards, vegetable gardens or any other plant species that can be used for the purposes of human consumption are not to be planted within the effluent management area.

58 **R118 - EMA protected from stock damage**

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

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

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

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

Appendix - Development Control Plan Compliance

Development Control Plan 2006

Part 4 (Chapter 4.9) - Rural development

DCP Objectives

It is considered that the objectives of the DCP have been satisfied, as they are similar to the aims and objectives of the LEP.

Part B – Development issues

- a. Fifteen (15) metres setback from a public road is required. The proposed dwelling is setback approximately 34 metres which is satisfactory;
- b. Services will be conditioned to ensure that the development can connect services. Conditions will be added to the consent to ensure that the septic system is adequately installed, maintained and managed for the life of the development;
- c. The site is not identified in the flood prone area;
- d. Access is achievable as a driveway currently services the site.
- e. No tree will be removed as a result of this development;
- f. Aboriginal surveys have not been provided, nor is the site known to be of Aboriginal significance.
- g. No advertising is proposed.
- h. In accordance with Council's Car Parking requirements, the proposed dwelling is to provide three car spaces and the existing dwelling is to provide two spaces.
- i. No noise will be generated for the ongoing use of the proposal. However, during construction, conditions will be added to ensure noise occurs only within acceptable times of the day during the construction stage of the proposal.
- j. Council's engineers have raised no objection to the proposed drainage of the site, subject to recommended conditions.
- k. The landscape plan provided is satisfactory.
- l. Soil erosion measures will be required to ensure that the impact is contained within the site.

Part C - Housing

§ The privacy of both dwellings and adjoining dwellings will be maintained as there is minimum 3.67m from garage and 12.67m from laundry room separating the two dwellings with predominantly laundry room facing each other. Given the short-stay nature of these rooms, this design is satisfactory;

§ Solar access will be maximised to living rooms as they are orientated predominantly north within the building which will maximise the northern sun;

§ Tree retention has been maximised by the siting of the proposed occupancy in the area of least impact with vegetation screening retained in the front and side boundary setbacks.

§ To ensure that the open rural character of the area is maintained, fencing is to be consistent with the provisions of the DCP for rural areas. This will be conditioned by way of consent;

§ The proposed dwelling does not exceed two storeys;

§ All of the buildings on site are clustered in the one location which is desirable for maintenance, passive surveillance and maintaining traditional rural character;

§ The colours chosen are in keeping with the natural surroundings;

§ The roof of the dwelling will be conditioned to be non-reflective;

§ The proposed dwelling will be set in front of the existing dwelling however given the distance from the road and the dominance of the proposed dwelling to the existing cottage,

the location is satisfactory.

§ It is also specifically noted that the DCP requires dual occupancy to be attached in certain zones and locations. This DCP requirement is inconsistent with the LEP which permits detached dual occupancies and this will be rectified when the Draft LEP and consolidated DCP is finalised. This does not prevent approval of the current application.