

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA21/0406
Proposed development:	Construction of Single Storey Dwelling to Form Detached Dual Occupancy
Property address:	2 - 4 South Street, GLENMORE PARK NSW 2745
Property description:	Lot 8 DP 1020587
Date received:	10 June 2021
Assessing officer	Jacqueline Klincke
Zoning:	SEPP WSA - Affected by Obstacle Limitation SEPP WSA - Affected by Wildlife Buffer Zone E4 Environmental Living - LEP 2010
Class of building:	Class 1a
Recommendations:	Approve

Executive Summary

Council is in receipt of a development application for the construction of a single dwelling to create a detached dual occupancy development at 2-4 South Street, Glenmore Park. The proposal also seeks to utilise two (2) car parking spaces located within the existing detached garage (approved under development consent DA06/0661), provide a concrete vehicular crossover, and extend the driveway to connect to the detached garage.

Under the provisions of the *Penrith Local Environmental Plan 2010* (PLEP), subject site is zoned E4 Environmental Living and the proposal is defined as a *dual occupancy* which is a permissible land use in the E4 zone. It is also noted that the subject site is 4359m² in total land size and does not comply with the 2 hectare lot size requirement as per Clause 7.10 of the PLEP. However, this Clause does not apply to this application in this instance as the property is connected to a reticulated sewage system provided by Sydney Water.

Furthermore, the M4 Western Motorway is located approximately 20m north from the subject site and in this regard, the requirements of Clause 102 of the *State Environmental Planning Policy (Infrastructure) 2009* apply. The applicant subsequently submitted an Acoustic Report demonstrating that traffic noise from the M4 Western Motorway will not impact the development in terms of noise, with the bedrooms and living areas achieving compliant sound levels, provided that the recommendations outlined in the report are adhered to.

In addition, the proposed development does not comply with two (2) *Penrith Development Control Plan 2014* controls in relation to the 5m side setback requirement, and parking spaces not located behind the front building line. Nevertheless, a variation to these controls are considered acceptable in this instance as there are no additional visual or privacy impacts to the immediate and surrounding neighbouring properties envisioned.

In accordance with Council's adopted *Community Engagement Strategy and Community Participation Plan 2019*, and Appendix F2 of the *Penrith Development Control Plan 2014*, the application was notified to nearby and adjoining properties and publicly exhibited between 21 June and 5 July 2021. No submissions were received in response.

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

The subject site is known as 2-4 South Street, Glenmore Park, and is legally described as Lot 8 DP 1020587. The property is located at the end of a cul-de-sac, and adjoins the M4 Western Motorway to the north (setback approximately 30m). The site is irregular in shape, with a total land area of 4359m².

The subject site is currently occupied by a single storey dwelling, detached garage (approved under development consent DA06/0661), and garden shed. The surrounding area is characterised by semi-rural residential development to the west, south and east, and the M4 Western Motorway to the north.

Site Constraints:

The subject site contains several restrictions on the use of the land including:

- All fencing shall be of a rural open character.
- All buildings shall be setback a minimum distance of 30m from the M4 Motorway southern boundary.
- All dwellings shall be single construction.
- All buildings shall be constructed of materials with finishes that are consistent with or complement background colours.

These affectations do not impact this subject application.

Proposal

The applications seeks approval for the following:

- Construction of a single storey dwelling (69m² in total area) consisting of 2 bedrooms, 1 bathroom, kitchen, living areas and deck to create a detached dual occupancy development,
- 1 x 3000L rainwater tank,
- Utilise two (2) car parking spaces within an existing detached garage,
- Extension of driveway to connect to the detached garage, and
- Concrete vehicular crossover.

Plans that apply

- Local Environmental Plan 2010
- Development Control Plan 2014
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy (Western Sydney Aerotropolis) 2020
- State Environmental Planning Policy No 55—Remediation of Land
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

Section 4.15 - Evaluation

The proposal 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

This Policy ensures the implementation of the BASIX scheme which encourages sustainable residential development. It requires certain kinds of residential development to be accompanied by a list of commitments to be carried out by applicants.

This proposal is subject to these requirements as it involves the construction of a single dwelling to create a dual occupancy development.

BASIX Certificate No. 1196930S, dated 9 June 2021, was submitted with the development application demonstrating compliance with set sustainability targets for water, energy efficiency and thermal comfort for the new dwelling.

A standard condition of consent is recommended to ensure the commitments in the Certificate are maintained during the life of the proposed development.

State Environmental Planning Policy (Infrastructure) 2007

Clause 102 Impact of road noise or vibration on non-road development

Clause 102 applies to residential accommodation development in or adjacent to the road corridor for a freeway, tollway, a transitway or any other road with an annual average daily traffic volume of more than 20,000 vehicles and requires the consent authority to be satisfied that appropriate measures will be undertaken to ensure that following LAeq levels are not exceeded:

- (a) in any bedroom in the residential accommodation, 35dB(A) at any time between 10pm and 7am,
- (b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway), 40dB(A) at any time.

The M4 Western Motorway (defined as a high traffic volume route) is located approximately 20m north from the subject site. In this regard, given the proximity of the M4 Western Motorway (a high traffic volume route) to the site, an Acoustic Report prepared by a suitably qualified person was requested to be submitted to demonstrate that the traffic noise from the M4 Western Motorway will not have an impact on the proposed development in terms of noise.

The applicant subsequently submitted an Acoustic Report, prepared by Acoustic Noise & vibration Solutions, which was reviewed by Council's Environmental Management Officer and satisfactorily addresses potential noise impacts which may arise during the operational phase of the dwelling in terms of traffic from the M4 Western Motorway. In this regard, provided that the recommendations in the Acoustic Report are adhered to, it is envisioned that there will be no noise impacts. A condition of consent is recommended in this regard.

State Environmental Planning Policy (Western Sydney Aerotropolis) 2020

An assessment has been undertaken of the proposal against the relevant criteria within the *State Environmental Planning Policy (Western Sydney Aerotropolis) 2020* and the proposal is satisfactory. It is noted that the subject site is affected by an Obstacle Limitation and Wildlife Buffer zone, however, these affectations do not impact the recommendations of this report.

State Environmental Planning Policy No 55—Remediation of Land

As assessment has been undertaken of the application against relevant criteria with *State Environmental Planning Policy No 55—Remediation of Land* and the application is satisfactory, subject to recommended conditions of consent. The application was referred to Council's Environmental Management Officer who raised no objections to any potential contamination of land, noting the prior residential use of the subject property and the continued use for residential purposes (which is not considered a potentially contaminating activity).

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

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

Local Environmental Plan 2010

Provision	Compliance
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Permissibility	Complies - See discussion
Clause 2.3 Zone objectives	Complies
Clause 4.3 Height of buildings	Complies - See discussion
Clause 4.4 Floor Space Ratio	N/A
Clause 7.1 Earthworks	Complies
Clause 7.4 Sustainable development	Complies
Clause 7.7 Servicing	Complies
Clause 7.10 Dual occupancies and secondary dwellings in certain rural and environmental	N/A

Clause 2.3 Permissibility

Under the provisions of the *Penrith Local Environmental Plan 2010*, the subject site is zoned E4 Environmental Living. The proposed development is defined as a *dual occupancy* which is a permissible development in the E4 zone with Council consent.

Clause 4.3 Height of buildings

Under the Height of Buildings Map of the *Penrith Local Environmental Plan 2010*, the prescribed maximum building height limit of the subject site is 8.5m. The proposed dwelling is single storey in nature with a skillion roof form. In this regard, the maximum building height of the proposed development is 3.75m which complies with Clause 4.3 of the PLEP.

Clause 7.10 Dual occupancies and secondary dwellings in certain rural and environmental zones

Clause 7.10 of the *Penrith Local Environmental Plan 2010* applies to dual occupancy and secondary dwelling developments in rural and environmental zones, including the E4 Environmental Living Zone, on lots that are not connected to a sewage reticulation system. However, whilst the subject site is zoned E4, the property has access to a reticulated sewage system provided by Sydney Water and the applicant has provided supporting evidence in regards to this matter. As such, an on-site sewage management system is not required and therefore, Clause 7.10 does not apply in this instance.

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

It is noted the Draft Environment SEPP, Draft Remediation of Land SEPP and Draft Design and Place SEPP apply to the subject site, but while so, 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
C11 Subdivision	N/A
C12 Noise and Vibration	Complies
C13 Infrastructure and Services	Complies
D1.1. Rural Character	Complies
D1.2. Rural Dwellings and Outbuildings	Does not comply - see Appendix - Development Control Plan Compliance
D1.3. Farm buildings	N/A
D1.4 Agricultural Development	N/A
D1.5. Non-Agricultural Development	N/A
E7 Glenmore Park controls	Complies

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

There are no planning agreements applying to the subject site or proposed development.

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

The relevant prescribed conditions of the Regulations such as the requirement for compliance with the Building Code of Australia and fire safety requirements will be imposed as conditions of consent where applicable. Subject to the recommended conditions of consent, the proposed development complies with the requirements of the *Environmental Planning and Assessment Regulations 2000*.

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

Context and Setting

The proposed design and scale of the development is compatible with the rural character of the semi-residential rural character of the surrounding area. The external colour schedule includes earthy tones and elements which are sympathetic to the surrounding area and complements the surrounding area. Whilst the new dwelling does not comply with the 5m side setback requirement (proposed at 3m), the proposed dwelling will not cause any visual impacts to the adjoining properties as it is adequately screened by existing vegetation, and no privacy impacts are envisioned as the eastern elevation of the building proposes highlight windows.

Access, Transport and Traffic

The proposal seeks to dedicate a parking space associated with the new dwelling in an existing detached garage (previously approved under development consent DA06/0661) which is located forward of the front building line. However, given this garage is existing, and due to the configuration of the lot, there are no additional visual or privacy impacts envisioned. It is noted that the parking arrangements for the existing dwelling are not impacted by this as the submitted Site Plan indicates the dedicated parking space for the existing house also within the detached garage.

Environmental Impacts

The proposal does not include the removal of any vegetation or significant trees. All existing landscaping located on-site will be retained.

Services

The subject site is connected to Sydney Water's reticulated sewer system and as such, an on-site sewage management system is not required.

Socio-Economic Impacts

The proposed development is of a minor scale and is not considered likely to result in any negative social impacts or on surrounding property values. The proposed development provides for housing diversity which in turn will contribute to cater for the diverse demographics within the area.

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

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

- The proposal satisfied the aims, objectives and controls of the relevant environmental planning instruments,
- The use is compatible with the surrounding and adjoining land uses,
- The grade of the site is suitable for the design of the proposal, and
- The site is able to drain to Council's satisfaction and requirements.

Section 4.15(1)(d) Any Submissions

Community Consultation

The subject application was notified to nearby and adjoining properties and publicly exhibited between 21 June and 5 July 2021. Council received no submissions.

Referrals

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

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

Section 4.15(1)(e)The public interest

Given the nature and scale of the proposed development, in addition to the proposal being largely compliant with the applicable planning standards and development controls, the development will not generate any significant issues of public interest.

Section 94 - Developer Contributions Plans

The following Section 7.11 development contribution plans apply to the site:

- Cultural Facilities
- District Open Space

The following development contributions apply to the proposed development:

Calculations for Dual Occupancy

Cultural Facilities

No. of additional units	x	Rate	Credit for existing dwelling/s	Contribution rate
2	x	3	3	3

District Open Space

No. of additional units	x	Rate	Credit for existing dwelling/s	Contribution rate
2	x	3.1	3.1	3.1

AMOUNTS

Contribution Plan	Contribution Rate x Calculation Rate	Total
Cultural Facilities	3.0 x \$194.00	\$582.00
District Open Space	3.1 x \$2,043.00	\$6,334.00
NET TOTAL		\$6,916.00

Conclusion

The above assessment has demonstrated that the proposal has met the relevant provisions of the following:

- Environmental Planning and Assessment Act 1979,
- Sydney Regional Environmental Plan No. 20 - Hawkesbury-Nepean River,
- State Environmental Planning Policy No. 55 - Remediation of Land,
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004,
- State Environmental Planning Policy (Western Sydney Aerotropolis) 2020,
- State Environmental Planning Policy (Infrastructure) 2009,
- Local Environmental Planning 2010, and
- Penrith Development Control Plan 2014.

The proposed dual occupancy development is generally consistent with the desired future character, design and function as identified in the Penrith LEP and DCP. The site is suitable for the proposal and the development does not generate any significant issues of public interest. Therefore, the application is worthy of support and is recommended for approval subject to conditions.

Recommendation

That DA21/0406 for the construction of a single dwelling to create a dual occupancy development at 2-4 South Street, Glenmore Park, be approved, subject to the attached conditions of consent.

General

1 [A001 - Approved plans table](#)

The development must be implemented substantially in accordance with the following stamped approved plans issued by Council, the application form, the BASIX Certificate 1196930S and any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

Drawing Title	Drawing No.	Issue	Prepared By	Dated
<u>Architectural Plans</u>				
Cover Sheet	22827 01	F	CUBITT'S	15/09/2021
Site Plan	22827 02	F	CUBITT'S	15/09/2021
Floor Plan	22827 03	F	CUBITT'S	15/09/2021
Elevations	22827 04	F	CUBITT'S	15/09/2021
Section	22827 05	F	CIBUTT'S	15/09/2021
<u>Stormwater Drainage Plans</u>				
Cover Sheet & Notes	C1	A	ACOR	08/06/2021
Stormwater Management Plan Sheet 1	C2	A	ACOR	08/06/2021
Stormwater Management Plan Sheet 2	C3	A	ACOR	08/06/2021
Stormwater Management Details	C4	A	ACOR	08/06/2021

- Waste Management Plan, dated 2/6/2021
- Acoustic Report, ref. 2021-361, prepared by Acoustic Noise & Vibration Solutions, dated 16 September 2021

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

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

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

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

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

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

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

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.

The approved sediment and erosion control measures are to be installed **prior to and maintained throughout the construction phase of the development until the land, that was subject to the works, have been stabilised and grass cover established.** These measures shall ensure that mud and soil from vehicular movements to and from the site does not occur during the construction of the development.

6 **D004 - Dust**

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

7 **D005 - Mud/Soil**

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

8 **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.

9 **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.

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.

Note: Penrith 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."

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

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

11 **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.

12 **D009 - Covering of waste storage area**

All waste materials stored on-site are to be contained within a designated area such as a waste bay or bin to ensure that no waste materials are allowed to enter the stormwater system or neighbouring properties. The designated waste storage areas shall provide at least two waste bays / bins so as to allow for the separation of wastes, and are to be fully enclosed when the site is unattended.

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

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

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

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

14 **D013 - Approved noise level 1**

Noise levels from the premises shall not exceed the relevant noise criteria detailed in the Acoustic Report prepared by Acoustic Noise & Vibration Solutions P/L (dated 16 September 2021, ref 2021-361). The recommendations provided in the above-mentioned acoustic report shall be implemented and incorporated into the design and construction of the development, and shall be shown on plans accompanying the Construction Certificate application. A certificate is to be obtained from a qualified acoustic consultant certifying that the building has been constructed to meet the noise criteria in accordance with the approved acoustic report. This certificate is to be submitted to the Principal Certifying Authority **prior to the issue of an Occupation Certificate**.

The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

15 **D014 - Plant and equipment noise**

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

BCA Issues

16 **E001 - BCA compliance**

All aspects of the building design shall comply with the applicable performance requirements of the Building Code of Australia so as to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the on-going benefit of the community. Compliance with the performance requirements can only be achieved by:

(a) complying with the deemed to satisfy provisions, or

(b) formulating an alternative solution which:

- complies with the performance requirements, or
- is shown to be at least equivalent to the deemed to satisfy provision, or

(c) a combination of (a) and (b).

Health Matters and OSSM installations

17 **F006 - Water tank & nuisance**

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

Utility Services

18 **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**.

19 **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.

20 **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

21 **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.

22 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.

23 H006 - Submission of and implement waste management plan

The approved waste management plan must be implemented on-site and adhered to throughout all stages of the development, with supporting documentation / receipts retained in order to verify the recycling and disposal of materials in accordance with the approved plan.

24 H032 - Painting

The building is to be painted internally and externally, **prior to the issue of an Occupation Certificate.**

25 H033 – Clothes line

Clothes drying facilities are to be positioned and screened from public view **prior to the issue of an Occupation Certificate.**

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

The rainwater tank(s) is to be:

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

Additionally, the following are to be provided:

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

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

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

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

27 **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.

28 **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.

29 **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.

30 [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.

Engineering

31 [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.

32 [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) Construction of a new concrete vehicular crossover in South Street, Glenmore Park
- b) Road opening for utilities and stormwater (including stormwater connection to Penrith City Council roads and other Penrith City Council owned drainage)
- c) Road occupancy or road closures
- d) The placement of hoardings, structures, containers, waste skips, signs etc. in the road reserve
- e) Temporary construction access

All works shall be carried out in accordance with the Roads Act approval, the development consent, including the stamped approved plans, and Penrith City Council's specifications, guidelines and best engineering practice.

Contact Penrith City Council's 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.
- All works associated with the Roads Act approval must be completed **prior to the issue of any Occupation Certificate**.

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

Stormwater drainage from the site shall be discharged to the:

- a) Kerb and gutter in South Street, Glenmore Park, via the existing site drainage system

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.

34 [K223 - Access, Car Parking and Manoeuvring - Minor Development](#)

Prior to the issue of any Construction Certificate, the Certifier shall ensure that:

- a) Off street access and parking complies with Penrith City Council's Development Control Plan and AS2890.1.
- b) Sight distances at the street frontage have been provided in accordance with AS2890.1.
- c) The minimum clear internal width is 3.1m for single garages and 5.6m for double garages.

35 [K405 - Turf to Verge](#)

Upon completion of all works in the road reserve, all verge areas fronting and within the development are to be turfed. The turf shall extend from the back of kerb to the property boundary, with the exception of concrete footpaths, service lids or other infrastructure which is not to be turfed over. Turf laid up to concrete footpaths, service lids or other infrastructure shall finish flush with the edge.

36 [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 have been inspected and signed off by Penrith City Council.

37 [K Special Condition BLANK](#)

Prior to the issue of any Construction Certificate, the Certifier shall ensure that the access driveway is sealed with asphalt or constructed in concrete from the property boundary to the detached garage in accordance with the Penrith Development Control Plan 2014.

Landscaping

38 [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.

39 [L012 - Existing landscaping \(for existing development\)](#)

Existing landscaping and trees are shall be retained and maintained at all times.

Development Contributions

40 **N001a - Section 7.11 contribution (apply separate condition for each Contribution Plan)**

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, **\$582.00 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.

41 **N001b - Section 7.11 contribution (apply separate condition for each Contribution Plan)**

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, **\$6,334.00 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

42 **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.

43 **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 of the dwelling.

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

D1 Rural Land Uses

D1.2 Rural Dwellings and Outbuildings

D1.2.2 Setbacks and Building Separations

Under Section D1.2.2 of the *Penrith Development Control Plan 2014* (Penrith DCP), dwellings are required to have a minimum setback of 15m from public roads, and a side setback of 5m on allotments less than 2 hectares. In this regard, the proposed dwelling is located behind the existing dwelling, approximately setback

The proposed dwelling also provides a 3m side setback which does not comply with the 5m control. However, despite this non-compliance, the proposed dwelling will not cause any visual impacts to the adjoining properties as it is adequately screened by existing vegetation, and no privacy impacts are envisioned as the eastern elevation of the building proposes highlight windows. In this regard, a variation to this control is considered acceptable in this instance.

D1.2.3 Site Coverage, Bulk and Massing

Section D1.2.3 of the Penrith DCP states a maximum ground floor footprint of 600m² is permitted on any one allotment, including all dwellings and associated structures, excluding 'farm buildings' and any 'agricultural or non-agricultural development'.

Noting the above control, the footprint area of the existing dwelling, existing detached garage and proposed dwelling are applicable. In this regard, the total footprint of the existing dwelling is approximately 377m², the footprint for the detached garage is approximately 105m², and the proposed footprint of the proposed dwelling is 69m². Therefore, the application proposes a total ground floor footprint of 551m² which is compliant.

D1.2.4 Height, Scale and Design

Under Part D1.2.4 of the Penrith DCP, dwellings shall be no more than two storeys in height, with the maximum height of the ceiling height of the top floor be no more than 8m above natural ground level. The proposed dwelling is single storey in nature, with a maximum building height of approximately 3.75m in height and therefore complies.

In addition, the Penrith DCP specifies that for sloping sites, the floor level of the dwelling at any point should be no greater than 1m above or below the natural ground level, with cut and fill limited to 1m. The site is relatively flat and therefore proposes minimal earthworks and complies with the Penrith DCP.

D1.2.5 Dual Occupancy Dwellings

1) Design

The Penrith DCP requires second dwellings to be located behind the building line of the existing dwelling and be detached with a minimum separation of 10m. The proposed second dwelling complies with these requirements by being located behind the existing dwelling with a separation distance of 13m.

Furthermore, the Penrith DCP requires the second dwelling to be significantly smaller than the existing dwelling house (i.e. approximately 50% in floor area. In this regard, the existing house has a total footprint of 377m², whilst the proposed second dwelling is 69m² in floor area which is significantly smaller and therefore complies with the DCP.

2) Access, Parking and Services

The Penrith DCP requires at least one accessible and covered off-street parking space to be provided on site behind the building line. The proposed dwelling does not contain an attached parking facility, but instead, seeks to utilise an undercover parking space within the existing detached garage which is forward of the building line and therefore a variation to the DCP control. Given this garage was approved under development consent DA06/0661, and due to the configuration of the lot, there are no additional visual or privacy impacts envisioned and therefore, a variation to this control is considered acceptable in this instance. It is noted that

the parking arrangements for the existing dwelling are not impacted by this as the submitted Site Plan indicates the dedicated parking space for the existing house also within the detached garage.

The application also proposed to extend the sealed driveway to the detached garage and provide a concrete vehicle crossover.

D1.2.7 Materials and Colours

The submitted external colour schedule incorporates a variety of external materials and finishes that are sympathetic to the existing dwelling and surrounding area which are earthy tones and in keeping with the natural surroundings.