

PENRITH CITY COUNCIL

FAST LIGHT ASSESSMENT REPORT

Application number:	DA21/0244
Proposed development:	Demolition of existing structures and construction of two storey dwelling, shed and swimming pool
Property address:	64 Nepean Avenue, PENRITH NSW 2750
Property description:	Lot A DP 409146
Date received:	13 April 2021
Assessing officer	Luke Caruana
Zoning:	Zone R2 Low Density Residential - LEP 2010
Class of building:	Class 1a , Class 10a
Recommendation:	Approve

Executive Summary

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

Site & Surrounds

The subject site is situated on the southern side of Nepean Avenue. It is 1220m² in area, is orientated in a north western direction and slopes down from the street.

An inspection of the site was undertaken on 11/04/2021 and the site is currently occupied by a single dwelling to be demolished

The surrounding area is characterised by residential development.

Proposal

The proposed development involves the construction of a two storey dwelling and detached shed including parking, landscaping and associated drainage works.

Plans that apply

1996 CENSUS COLLECTORS DISTRICT
PENRITH DCP 2014
GENERAL LIST
EASEMENT DRAINAGE 1.83 METRES
LOW FLOOD ISLAND
DCP 2014 - Tree Preservation Controls
DCP 2014 - General Information
PLAN INST - SREP NO 9 EXT IND (NO 2-1995) AA
PLAN INST - SREP NO 20 HAW NEP RIV (NO2-1997) AA
MISC - REP 20 RIVERINE SCENIC AREA
FLOOD RELATED DEVEL CONTROLS - LOW FLOOD ISLAND
Local Environmental Plan 2010
No Comp Devel under GHC – Env Sens Land
No Comp Devel under RH Code - Env Sens Land
No Comp Devel under C & I (NBA) Code - Env Sen Lan
No Comp Devel under LRHDC – Env Sens Land
No Comp Devel under H Code - Env Sens Land
Asbestos Policy
PRECINCT 2010
SEC 94 CONTRIB PLAN - CULTURAL FACILITIES
SEC 94 CONTRIB PLAN - LOCAL OPEN SPACE 2007
SEC 94 CONTRIB PLAN - DISTRICT OPEN SPACE FACILS
SEC 7.12 CONTRIB PLAN - PENRITH CITYWIDE
STATE ENV PLANNING POLICIES - GENERAL LIST
SOUTH WARD
Zone R2 Low Density Residential - LEP 2010
LEP 2010 - Clause 7.2 Flood Planning
LEP 2010 - Additional Land Use Notes

Planning Assessment

• Section 4.15 - Evaluation

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

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

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

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

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

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

Section 4.15(1)(a)(iii) Any development control plan

Is the development consistent with the provisions of any development control plan relevant to this proposal? **Does not comply - See discussion**

Section 4.15(1)(a)(iv) Any applicable regulations

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

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

Context and setting

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

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

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

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

Sunlight (overshadowing): **Complies**

Visual and acoustic privacy: **Complies**

Views or vista: **Complies**

Access and Transport

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

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

Heritage

The property is not subject to any heritage order or is identified as heritage under a planning instrument. **N/A**

Soil

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

Natural and Technological Hazards

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

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

Bushfire requirements provided for the development **N/A**

Acoustic requirements provided for the development **N/A**

Site design

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

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

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

Was the site inspected?	Yes
Does the proposal fit locality?	Yes
Are the site attributes conducive to development?	Yes
Will the proposal have minimal social and economic impacts on the locality?	Yes
Has any applicable 88b instrument been considered?	Yes
Does the development propose the removal of trees?	Yes
Have the plans been checked by any relevant developer groups?	N/A
Has a BASIX certificate been provided?	Yes

Section 4.15(1)(d) Any submissions made in accordance with the EPA Act and Regulations?

Was the application required to be publicly notified?	Yes
Were any submissions received during the public notification period?	No

Section 4.15(1)(e)Public Interest

The application will have minimal impacts on public interest	Complies
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Conclusion/Summary

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

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

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

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

Recommendation

1. That DA21/0244 for the construction of a double storey dwelling, detached shed and swimming pool at Lot A DP 409146 No. 64 Nepean Avenue, be approved subject to the attached conditions (Development Assessment Report Part B).

CONDITIONS

General

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

The development must be implemented substantially in accordance with the plans prepared by Briffa Design, sheets 1-8 inclusive, issue 6, dated 30.07.2021, and the landscaping plan prepared by Monaco Designs, sheets 1 - 2, and stamped approved by Council, the application form, the BASIX Certificate and any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

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

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

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

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

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

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

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

5 [A special Blank](#)

The trees shown on the plans for screening shall be capable of and nurtured to grow to 3m in height as a minimum and shall be maintained in perpetuity. The trees shall be planted prior to the issue of an Occupation Certificate.

Demolition

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

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

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

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

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

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

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

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

8 [B004 - Dust](#)

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

9 [B005 - Mud/Soil](#)

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

10 [B006 - Hours of work](#)

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

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

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

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

Environmental Matters

11 [D001 - Implement approved sediment& erosion control measures](#)

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

(Note: To obtain a copy of the publication, you should contact Landcom on (02) 98418600).

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

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

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

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

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

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

13 [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.

14 **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.

15 **D014 - Plant and equipment noise**

The operating noise level of the swimming pool filter 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 Operation Act 1997 apply to the development, in the 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.

Construction

18 **H001 - Stamped plans and erection of site notice**

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

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

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

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

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

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

19 [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).

20 [H022 - Survey \(as amended\)](#)

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

21 [H030 – Roof finishes \(rural property\)](#)

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

22 **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.

23 **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.

24 **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.

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

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

26 **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.

27 **H Special - Retaining wall**

The retaining walls shall be of masonry construction and shall be located wholly within the property boundary.

Swimming Pools

28 **J002 - Fencing when water in pool**

When the swimming pool construction has reached a stage where the pool is capable of holding water, the pool area shall be restricted from access in accordance with AS1926 "Swimming Pool Safety". Restriction of access to the pool area shall also comply with the Swimming Pools Act, 1992.

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

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

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

30 **J005 - Windows**

For each window giving access to the swimming pool (but does not apply to a child-safe window or to a window that is totally enclosed by a child-safe grille):

- the bottom of the lowest opening panel of the window must (when measured in the closed position) be at least 1.2 metres above finished floor level, and
- there must not be any footholds wider than 10 millimetres between the bottom of the lowest opening panel of the window and any point within 1.1 metres below the bottom of that panel.

31 **J010 - Pool board/ sign (add J009)**

A sign must be erected in a prominent position in the immediate vicinity of the swimming pool and must:

- be erected in accordance with the provisions relating to instructional posters of the document entitled "Policy Statement No. 9.4.1: Guidelines for the Preparation of Posters on Resuscitation" published by the Resuscitation Council. (A copy may be purchased from Penrith City Council's Civic Centre, 601 High Street, Penrith), and
- bear a notice that contains the words "YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS SWIMMING POOL", together with details of resuscitation techniques (for adults, children and infants) set out in the relevant provisions of the document entitled "CardioPulmonary Resuscitation" published by the Australian Resuscitation Council. (A copy may be purchased from Penrith City Council's Civic Centre, 601 High Street, Penrith).

32 **J011 - NSW Swimming Pool Register**

The swimming pool must be registered on the NSW Swimming Pool Register when it is capable of holding water and before the issue of an Occupation Certificate. The swimming pool is to be registered at www.swimmingpoolregister.nsw.gov.au or in person at Penrith City Council (\$10 fee applies when registering at Council).

33 J012 - Backwash and Overflow

All backwash from the swimming pool shall be directed into the mains sewer.

In areas where sewer is not available, the following requirements apply -

- The swimming pool shall be provided with filtration equipment that does not require a backwash facility (eg. a cartridge filtration system).
- Overspill water shall be diverted away from the swimming pool and not directed onto adjoining properties.
- The frequency of emptying of the swimming pool water shall be minimised. Water resulting from the emptying of the pool shall be collected and disposed of by a private wastewater disposal contractor. Disposal by other means is not permitted.

Engineering

34 K026 - Stabilised access

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

35 K101 - Works at No Cost to Council

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

36 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.

37 K202 - S138 Roads Act - Minor Works in the Public Road

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

- a) Vehicular crossings (including kerb reinstatement of redundant vehicular crossings)
- b) Road opening for utilities
- c) Road occupancy or road closures (including temporary construction work zones and tower crane operation)
- 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 as applicable.

38 **K205 - S68 Local Government Act - Stormwater Drainage Works**

Prior to the issue of any Construction Certificate, the Certifier shall ensure that an application under Section 68 of the Local Government Act, including payment of application and inspection fees, has been lodged with and approved by Penrith City Council for provision of a stormwater connection to Council's existing drainage line at the rear of the property.

Engineering plans are to be prepared in accordance with the development consent, Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments, Engineering Construction Specification for Civil Works, Austroads Guidelines, and best engineering practice.

Contact Penrith City Council's Development Engineering Department on 4732 7777 to obtain a formal fee proposal prior to lodgement and visit Penrith City Council's website for more information.

Note:

- All works associated with the Section 68 Local Government Act approval must be completed prior to the issue of any Occupation Certificate as applicable.

39 **K209 - Stormwater Discharge - Minor Development**

Stormwater drainage from the site shall be discharged to Penrith City Council's drainage line at the rear of the property.

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.

40 **K214 - Flooding - Floor Levels**

Prior to the issue of any Construction Certificate, the Certifier shall ensure that all habitable floor levels are in accordance with the stamped approved plans with a minimum floor level of RL 27.3m AHD (adopted flood level + 0.5m freeboard).

41 **K217 - Flooding - Flood Compatible Materials**

Prior to the issue of any Construction Certificate, the Certifier shall ensure that parts of the shed structure at the rear of the property below RL 26.3m AHD (adopted flood level + 0.5m freeboard) have been detailed with flood compatible building components in accordance with the publication 'Reducing the Vulnerability of Buildings to Flood Damage' produced by the Hawkesbury-Nepean Floodplain Management Steering Committee.

42 **K218 - Flooding - Structural Adequacy**

Prior to the issue of any Construction Certificate, the Certifier shall ensure that the shed structure can withstand the forces of floodwater, including debris and buoyancy, up to the 1% Annual Exceedance Probability event in accordance with the requirements of the Building Code of Australia (BCA).

43 **K219 - Flooding - Flood Proofing**

Prior to the issue of any Construction Certificate, the Certifier shall ensure that all electrical services associated with the proposed shed structure are adequately flood proofed in accordance with Penrith City Council's Development Control Plan relating to flood liable land. Flood sensitive equipment for the shed at the rear of the development (including electric motors and switches) shall also be located above the adopted flood level of RL 25.8m AHD.

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

Prior to the issue of any Construction Certificate or Subdivision Works 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.

45 [K401 - Flooding - Surveyor Verification of Floor Levels](#)

A certificate by a registered surveyor verifying that all habitable floor levels are at or above RL 27.3m AHD (adopted flood level + 0.5m freeboard) shall be submitted upon completion of the building to that level. No further construction of the building is to be carried out until approval to proceed is issued by the Certifier.

46 [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.

47 [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 the required S138 Roads Act and S68 Local Government Act approvals have been inspected and signed off by Penrith City Council.

48 [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.

49 [K Special - Apply if there is an EASEMENT on the site](#)

No earthworks including cut and fill or building works including a retaining wall, garden shed or other structures of the like are permitted within the easement. The easement is to remain at natural ground level at all times.

50 [K Special - Drainage and retaining wall](#)

All associated drainage for the retaining wall shall be connected to the approved stormwater disposal system.

Landscaping

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

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

Landscaping shall be maintained:

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

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

52 [L008 - Tree Preservation Order](#)

No trees are to be removed, ringbarked, cut, topped or lopped or wilfully destroyed other than those within 3 metres of 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.

Payment of Fees

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

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

Certification

54 [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.

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

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

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

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

Appendix - Development Control Plan Compliance

D2	Residential Development – Single Dwellings	Complies Y/N	Comments
2.1.2	Front setback – Minimum 5.5m or average of adjoining properties.	No	8.31m The proposed setback is a minor encroachment on the existing setback. Additionally, the front setback is reasonable as it demonstrates cohesion with the character of the area, provides reasonable building separation. No adverse impact will occur as a result.
	Secondary Street (where applicable) – Minimum 3m to external walls and minimum 5.5m to garage entrances	NA	
	Encroachments - Verandahs and pergolas are permitted to encroach 1.5m beyond the setback	Yes	Front entry feature provided forward of building line.
	Side setback – minimum 900mm	Yes	1.26m
	Rear setback – minimum 4m for single storey component or 6m for 2 storey component	Yes	
	(non-habitable building or structure can be closer if minimal adverse impact on the subject property or any adjoining property)	NA	
	Building envelope compliance (encroachments permitted if improved design, appearance or utility and minimal impact)	Yes	
	2.1.3	Cut and fill does not exceed 600mm measured from NGL.	Yes
Ground floor levels max 800mm above NGL		No	Floor levels are a response to the flood affectations on site. No adverse impact to privacy and undesirable visual bulk is reduced through the articulated design of the dwelling providing varied setbacks various materials and a modern design.
Retaining wall forward of garage are masonry		Yes	A condition will be provided

<p>Lots with a side cross slope exceeding 5%, must respond to the slope of the land with either split level, drop edge beam, or bearer and joist design (or a combination of these)</p>	<p>NA</p>	
<p>Where front to back slopes are steep (i.e. approximately greater than 9%) house designs must respond to the topography of the land with either split level, dropped edge beam, or timber frame floor (bearer and joist) design - or a combination of these.</p>	<p>Yes</p>	<p>Design provides an internal step down following the topography of the site.</p> <p>Further site responsiveness may impact on the floor levels being compliant with the flooding affectations on site.</p>
<p>Garden retaining walls within lots are not to exceed 0.9m in height. Any remaining slope is to be graded out.</p>	<p>NA</p>	
<p>Driveway gradient to not exceed 20%</p>	<p>Yes</p>	
<p>On lots sloping downhill from the street, the privacy of adjoining dwellings down slope should be preserved by providing screening vegetation between observable platforms and adjoining private open space areas, or integrating features such as timber screens to decks, or partially opaque windows where privacy is essential and screening vegetation is impractical.</p>	<p>NA</p>	

2.1.4	<p>The minimum landscaped area of a site is</p> <table border="1"> <thead> <tr> <th data-bbox="300 120 478 152">Zone</th> <th data-bbox="507 120 756 237">Minimum landscaped area % of the site</th> </tr> </thead> <tbody> <tr> <td data-bbox="300 253 478 327">R1 Residential General</td> <td data-bbox="507 253 544 284">40</td> </tr> <tr> <td data-bbox="300 342 478 459">R2 Low Density Residential</td> <td data-bbox="507 342 544 374">50</td> </tr> <tr> <td data-bbox="300 474 478 591">R3 Medium Density Residential</td> <td data-bbox="507 474 544 506">40</td> </tr> <tr> <td data-bbox="300 607 478 723">R4 High Density Residential</td> <td data-bbox="507 607 544 638">35</td> </tr> </tbody> </table> <p>NB: Calculation of landscaped area does not include areas of the site less than 2m in width or hard surface areas such as buildings, driveways and paved areas.</p> <p>Calculation of landscaped area may include up to 15m² of any verandah, deck or patio that is attached to a dwelling at ground floor level and is associated with a landscaped area that is designated open space for that dwelling</p> <p>A portion of the landscaped area should be connected to or directly adjacent to a living area of the dwelling.</p>	Zone	Minimum landscaped area % of the site	R1 Residential General	40	R2 Low Density Residential	50	R3 Medium Density Residential	40	R4 High Density Residential	35		<p>Required 610m² Provided 450.33m²</p> <p>It is noted that the application proposes approximately 36.9% landscaping. While this is a numerical non-compliance with Council's Development Control Plan it is noted that the development demonstrates compliance with the objectives of the DCP.</p> <p>The proposal has demonstrated that a reasonable portion of the site has been maintained as landscaped area, significant existing vegetation is unaffected, appropriate building separation between neighbouring dwellings is provided and private open space corridors along the rear boundary and preserved.</p> <p>The proposal includes a large pool which also takes up a significant amount of otherwise landscaped area.</p> <p>The amount of landscaped area proposed is consistent with development in the immediate area.</p> <p>No adverse impact will occur as a result of the proposed variation.</p>
Zone	Minimum landscaped area % of the site												
R1 Residential General	40												
R2 Low Density Residential	50												
R3 Medium Density Residential	40												
R4 High Density Residential	35												
2.1.5	<p>Articulate all building forms and facades</p> <p>Two storey buildings to be designed as a combination of one and two storey elements with a variety of setbacks from boundaries</p> <p>External walls are not to be longer than 8m between distinct corners or features such as projecting verandahs and awnings or banks of windows.</p> <p>All balconies and decks higher than 800mm above existing ground level shall incorporate privacy measures such as screening or landscape planting.</p>	<p>Noted</p> <p>Yes</p> <p>Yes</p> <p>NA</p>											

	Garage setback at least 1m behind the building line of the dwelling	Yes	
	Total width of all garage doors facing a primary or secondary road frontage must not exceed; i) If the lot has a width less than 15m measured at the building line – 4.8m ii) If the lot has a width of more than 15m measured at the building line – 6m.	Yes	
	Corner lot is to be designed and orientated so as to address both street frontages and include appropriate design features and articulation	NA	
	Parking is to be provided at the rate of: i) A minimum of one space behind the building alignment ii) Two spaces for each dwelling with two or more bedrooms, at least one of which is located behind the building alignment. Stacked parking is acceptable for additional spaces.	Yes	
2.1.6	Ensure that the proposed development provides a minimum of 3 hours sunlight between 9am and 3pm on 21 June, to living zones of the dwelling, and the living zones of any adjoining dwellings;	Yes	
	Ensure that the proposed development provides a minimum of 3 hours sunlight between 9am and 3pm on 21 June, to 40% of the main private open spaces of the dwelling and main private open spaces of any adjoining dwellings	Yes	
	Where existing overshadowing by buildings and fences reduces sunlight to less than this, sunlight is not further reduced by more than 20%	Yes	

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

2.1.8	<p><i>This Section only applies only to:</i></p> <ul style="list-style-type: none"> <i>a) frontages to the Nepean River;</i> <i>b) escarpment footslopes in Leonay and Emu Heights;</i> <i>c) the Cranebrook escarpment;</i> <i>d) Glenmore Park, adjacent to the Mulgoa Nature Reserve;</i> <i>e) wooded hillsides in South St Marys;</i> <i>f) individual streetblocks identified by Council's Register of Significant Trees and Gardens; and</i> <i>g) in Kingswood: Werrington Creek.</i> <p>Development must:</p> <ul style="list-style-type: none"> 1) maintain natural topography and features such as rock outcrops; 2) preserve established trees, preferably as blocks or corridors of several trees; 3) ensure that long term survival of established trees is not affected by the location of buildings and pavements or construction works; 4) preserve clusters of established trees as blocks or corridors; 5) consider a wider side boundary setback as landscaped corridor to preserve trees and provide vistas between neighbouring buildings; 6) on sloping sites garages may be located at street-level within the front setback, subject to an "open" design similar to a screened carport; 7) on sloping sites dwellings should be split-level designs, with the lowest floor level no higher than 1m above natural ground level; 8) in general, new plantings should be species indigenous to the local soil type, reinforcing visual and habitat values. 	NA	
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2.6	Principles of urban form and urban design that apply to permissible residential development should be adopted for non-residential development. The development site including front setbacks, rear setbacks dual frontage situations.	NA	
	a) Urban form including: i) traditional building design features; ii) traditional garden frontages; iii) orientation of building entrances; iv) continuously occupied rooms facing the street; v) detailed consideration of significant townscapes or landscapes; vi) signs. vii) driveways and parking including: · provision of on-site parking appropriate to the proposed use, and in accordance with the parking requirements of this DCP; · minimise site coverage by paved areas; · conceal garages from views available from public parks and streets; · locate driveways and parking areas away from any neighbouring residential development	NA	
	b) landscaped area- provision and design of the required minimum area with detailed design of gardens and paving;	NA	
	c) side setbacks to provide for effective landscaped separation from adjacent developments;	NA	
	d) solar planning and energy efficiency - minimised overshadowing of adjacent properties and minimise requirements for mechanical heating and cooling of interiors;	NA	
	e) privacy - protect the amenity of adjacent properties;	NA	

f) storage and building services - sufficient to meet requirements generated by the proposed development and located to protect the amenity of adjacent developments.	NA	
g) privacy – protect the amenity of adjacent properties;	NA	
h) storage and building services – sufficient to meet requirements generated by the proposed development and located to protect the amenity of adjacent residents.	NA	