

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA18/1246
Proposed development:	Detached Secondary Dwelling
Property address:	60 Barker Street, CAMBRIDGE PARK NSW 2747
Property description:	Lot 9 DP 23256
Date received:	19 December 2018
Assessing officer	Surreti Bajwa
Zoning:	Zone R2 Low Density Residential - LEP 2010
Class of building:	Class 1a
Recommendations:	Approve

Executive Summary

Council is in receipt of a development application for the erection of a detached secondary dwelling at 60 Barker Street, Cambridge Park. The subject site is zoned R2 Low Density Residential under *Penrith Local Environmental Plan 2010* and the proposed development is permissible with Council consent. The proposal complies with the envelope, height and setback requirements of the Affordable Rental Housing SEPP and Council's LEP and DCP requirements. The design and appearance of the proposed dwelling is simple and subservient to the existing house and the surrounding area. The proposal is of a minor scale and is sited out of street view.

The site is identified as (partially) bushfire prone and flood affected land per Council's maps.

Assessment:

Discussions and correspondence have been conducted and relayed between Council staff and the applicant following the receipt of the application. Subsequently, amended plans were provided in response to staff's concerns and the matters raised have been appropriately resolved.

Key issues identified with the application included:

- **Flooding matters:** A preliminary review of the proposed was referred to Council's Engineer as the site is identified as being affected by overland flows based on the Penrith Overland Flow Flood Overview Study 2006. Amendments were requested for the finished floor levels of the proposed dwelling to demonstrate that the development will have no adverse impact on adjoining properties. Amended plans were received and Council's Engineer confirmed that the plans was satisfactory subject to conditions.
- **Privacy Concerns:** The proposed application originally provided a side setback of 1.73m from the northern side boundary, which is compliant with the minimum 900mm controls per the provisions of the Penrith Development control plan (DCP) 2014. Notwithstanding this, due to the elevated nature of the structure in conjunction with a large porch proposed along the northern side boundary, the development was considered to provide opportunities for overlooking and privacy concerns for neighbouring properties. Upon request, the applicant submitted amended plans with the porch and stairs located on the north western boundary corner of the proposed structure, providing a greater side setback of 3.56m. Additionally, the porch area has been reduced in size. It is considered that the application in its current form will provide an acceptable setback and reduce opportunities for overlooking.

The application was publicly notified from 27 December 2018 to 2 February 2019 in accordance with Part F4 of the Penrith Development Control Plan 2014. No submission were received during this time.

An assessment of the proposal 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 legally described as Lot 9 in DP 23256 and is commonly known as 60 Barker Street, Cambridge Park. The site is located to the south east of Barker Street and has a total site area of 817.6m².

The site is an irregular shaped lot with a larger front setback of 17.89m and a smaller angled rear setback of 9.49m. The existing development on the site comprises of a single storey residential dwelling with a tiled pitch roof form and weatherboard cladding to the exterior walls. Vehicular access is provided to the site via an existing driveway located on the southern side boundary. The rear of the subject site comprises of open landscaping with a paved area and small garden shed.

The current streetscape is characterised by single storey residential dwellings with tiled pitched roof forms with either weatherboard cladding or exposed face-brick finishes to exterior walls.

Proposal

The application seeks Council approval for a new secondary dwelling located at the rear of the subject site. It will be setback a minimum of 4.35m from the rear setback, 1.8m from the southern side boundary and 1.73m from the northern side boundary. The proposed secondary dwelling is separated from the existing dwelling by approximately 19m at its closest point.

The proposed secondary dwelling is fully self contained and the internal works sought include;

- Two (2) bedroom;
- One bathroom;
- Living/dining area;
- Kitchen; and
- laundry

Exterior:

- A porch is proposed along the northern western corner of the secondary dwelling.
- There is approximately 52m² of private open space provided to the rear of secondary dwelling.

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy (Affordable Rental Housing) 2009
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy No 55—Remediation of Land
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

• Section 4.14 - Bushfire prone land assessment

The subject site is located within 100m of the Kanagra Reserve and is identified as bushfire prone land per Council's maps. Notwithstanding this, the proposed secondary dwelling will be located at the rear of the site in an area not designated as bushfire prone. Accordingly, no special bushfire requirements will be applied to this development application.

• Section 4.15 - Evaluation

The development has been assessed in accordance with the matters for consideration under Section 4.15 (formerly Section 79C) of the EP&A Act, including the relevant state and regional planning policies. Those issues requiring further discussion are identified and considered below.

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

State Environmental Planning Policy (Affordable Rental Housing) 2009

The proposal seeks a single storey secondary dwelling (granny flat) located at the rear of the subject site. The inclusion of the secondary dwelling facilitates the effective delivery of affordable housing by way of expanding the existing use of the subject site, enabling a greater number of residences to live on the site.

An assessment of the proposed development had been undertaken against the relevant criteria within *State Environmental Planning Policy (Affordable Rental Housing) 2009* and the proposal is satisfactory subject to recommended conditions of consent. The key provisions of the SEPP are as follows:

Division 2 - Secondary dwellings

19 Definition

In this Division:

development for the purposes of a secondary dwelling includes the following:

- (a) the erection of, or alterations or additions to, a secondary dwelling,*
- (b) alterations or additions to a principal dwelling for the purposes of a secondary dwelling.*

Comment:

The proposal is for the erection of a secondary dwelling.

Note:

The standard instrument defines secondary dwelling as follows:

secondary dwelling means a self-contained dwelling that:

- (a) is established in conjunction with another dwelling (the principal dwelling), and*
- (b) is on the same lot of land (not being an individual lot in a strata plan or community title scheme) as the principal dwelling, and*
- (c) is located within, or is attached to, or is separate from, the principal dwelling.*

The proposal is appropriately defined as a detached secondary dwelling.

20 Land to which Division applies

This Division applies to land within any of the following land use zones or within a land use zone that is equivalent to any of those zones, but only if development for the purposes of a dwelling house is permissible on the land:

- (a) Zone R1 General Residential,*
- (b) Zone R2 Low Density Residential,*
- (c) Zone R3 Medium Density Residential,*
- (d) Zone R4 High Density Residential,*
- (e) Zone R5 Large Lot Residential.*

Comment: The SEPP applies to the R2 Low Density Residential zone, being the zoning of the site.

21 Development to which Division applies

This Division applies to development, on land to which this Division applies, for the purposes of a secondary dwelling and ancillary development (within the meaning of Schedule 1).

Comment: This division applies to the development.

22 Development may be carried out with consent

(1) Development to which this Division applies may be carried out with consent.

Comment: The development is permissible with Council consent.

(2) A consent authority must not consent to development to which this Division applies if there is on the land, or if the development would result in there being on the land, any dwelling other than the principal dwelling and the secondary dwelling.

Comment:

The development will only result in a principal dwelling and a secondary dwelling being located on the site which satisfies the requirements of this clause.

(3) A consent authority must not consent to development to which this Division applies unless:

(a) the total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area allowed for a dwelling house on the land under another environmental planning instrument,

(b) the total floor area of the secondary dwelling is no more than 60 square metres or, if a greater floor area is permitted in respect of a secondary dwelling on the land under another environmental planning instrument, that greater floor area.

Comment: The Penrith Local Environmental Plan 2010 contains a maximum floor area standard which the development satisfies and the secondary dwelling does not exceed the maximum 60m² floor area requirement.

(4) A consent authority must not refuse consent to development to which this Division applies on either of the following grounds:

(i) the secondary dwelling is located within, or is attached to, the principal dwelling, or

(ii) The site area is at least 450 square meters,

Comment:

The secondary dwelling will be detached from the principal dwelling and the site satisfies the minimum 450m² land area requirement.

(b) parking

if no additional parking is to be provided on the site.

Comment: The proposal does not provide separate on-site parking for the secondary dwelling.

(5) A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause 4

Comment: Although the proposal does not provide additional parking, this is acceptable under this clause and cannot be used as a reason for refusal. Additionally, it is evident that at least three cars can be accommodated on the hard stand area along the southern side boundary of the site.

It is noted that a carport was located on site, prior to 2017, however, currently there is no covered car parking available on site. Accordingly, a special condition of consent will be imposed to satisfy the covered car parking requirements of Penrith DCP 2014.

24 No subdivision

A consent authority must not consent to a development application that would result in any subdivision of a lot on which development for the purposes of a secondary dwelling has been carried out under this Division.

Comment: Subdivision is not proposed as part of the application. Suitable conditions are recommended to ensure that subdivision of the lot (either by torrens or strata) does not occur.

The design of the secondary dwelling is compliant with the Building Code of Australia and relevant conditions of Consent will be imposed to ensure that there are no additional implications to residents located in the vicinity of the subject site.

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

A BASIX Certificate was submitted as part of the application which indicates the proposal meets the required reduction targets. An appropriate condition of consent will be imposed to ensure future compliance with these targets.

State Environmental Planning Policy No 55—Remediation of Land

A review of the available history for the site gives no indication that the land associated with this development is contaminated. There were no historic uses that would trigger further site investigations. The objectives outlined within SEPP55 are considered to be satisfied

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

The aim of this planning policy is to protect the environment of the Hawkesbury-Nepean River system. The proposed development will not have an adverse impact to this river system given the relatively minor nature of the proposal (being an additional single dwelling) and that the secondary dwelling will be connected to the City's existing stormwater and drainage system for disposal of water.

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 2.3 Permissibility	Complies - See discussion
Clause 2.3 Zone objectives	Complies - See discussion

Clause 2.3 Permissibility

The subject site is zoned R2 Low Density Residential under Penrith Local Environmental Plan (PLEP) 2010.

'Secondary dwellings' are permissible within the R2 Low Density Residential Zone with consent and is defined under the PLEP 2010 as follows:

"Secondary dwelling means a self-contained dwelling that:

- (a) is established in conjunction with another dwelling (the principal dwelling), and
- (b) is on the same lot of land as the principal dwelling, and
- (c) is located within, or is attached to, or is separate from, the principal dwelling."

The proposed development for the construction of a secondary dwelling is consistent with the definition above and is therefore permissible within the zone with consent.

Clause 2.3 Zone objectives

An assessment of the proposal against the objectives of the R2 Low density zone is included below:

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

The proposed secondary dwelling is generally in keeping with the zone objectives and the will provide for the needs of the community by providing additional affordable housing.

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

Development Control Plan 2014

Provision	Compliance
C2 Vegetation Management	N/A
C3 Water Management	Complies
C4 Land Management	Complies
C5 Waste Management	Complies
C6 Landscape Design	Does not comply - see Appendix - Development Control Plan Compliance
C7 Culture and Heritage	N/A
C8 Public Domain	N/A
C9 Advertising and Signage	N/A
C10 Transport, Access and Parking	Does not comply - see Appendix - Development Control Plan Compliance
C11 Subdivision	N/A
C12 Noise and Vibration	N/A
C13 Infrastructure and Services	N/A
D2.3 Secondary Dwellings	Complies - see Appendix - Development Control Plan Compliance

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

The proposed development will comply with the Regulations, where they are relevant and subject to conditions.

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

The proposed secondary dwelling is located in an overland flow path, and as per Council's Development Engineers comments, the flood planning level is RL 59.8 AHD and as such the applicant provided amended plans demonstrating compliance with the minimum requirements.

The secondary dwelling will be required to be raised 0.770m above the natural ground level to accommodate for the 59.8RL finished floor level and results in an overall height of 4.82m above natural ground level. Notwithstanding this, there is adequate setbacks provided from both side boundaries and the rear boundary. Despite the scale of the secondary dwelling it is unlikely to detract from the privacy and amenity of the adjoining properties as no windows are proposed on the eastern rear elevation. Whilst windows are proposed on the southern side elevation, the secondary dwelling will not be located adjacent to any habitable rooms on the adjoining site and will also be partially obstructed by the 1.8m boundary fence.

Similarly, whilst the porch is elevated approximately 0.7m above natural ground level, it is unlikely to result in opportunities for overlooking as the site is relatively flat and views of the adjacent site to the north will be obstructed by the dividing fence. In addition, to mitigate potential privacy concerns, a condition of consent will be recommended for evergreen shrubs with a minimum 5 litre container size achieving a minimum mature height of 3m to be planted adjacent to the boundary fence along the northern and southern side boundaries. This will help maintain privacy amenity neighbouring residences.

The proposed secondary dwelling seeks a pitched roof form sympathetic to the residential dwelling located on the subjects site and others in the vicinity. As the proposed colours and finishes of the dwelling have not been provided, a condition is recommended, where this is to be provided prior to the issue of a Construction Certificate. This is to ensure that the external colours and finishes are sympathetic to the character of the locality.

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

The site is suitable for the proposed secondary dwelling as there is an existing primary dwelling and the site is large enough to accommodate the proposed secondary dwelling, whilst retaining adequate room for parking and private landscaped areas.

Section 79C(1)(d) Any Submissions

Community Consultation

The application was notified to the surrounding property owners in accordance with Council's policy and no submissions were received.

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

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

The proposal is considered to be in the public interest as it provides additional housing to meet the needs of the community. Conditions are recommended to ensure that internal amenity for the future residents is achieved.

Section 94 - Developer Contributions Plans

The following Section 7.11 plans apply to the site:

- Section 7.11 - District Open Space Facilities
- Section 7.11 - Cultural Facilities
- Section 7.11 - Penrith City Local Open Space

The following Section 7.11 calculations apply to the proposed development.

Calculation for Secondary Dwelling					
<i>Open Space</i>					
No. of units	x	Rate	-	Credit for existing dwelling/s	Contribution rate
1	x	4.6	-	3.1	1.5
<i>City wide</i>					
No. of units	x	Rate	-	Credit for existing dwelling/s	Contribution rate
1	x	4.5		3.0	1.5
AMOUNT					
S.7.11 Contribution Plan		Contribution Rate x Calculation rate		Total	
District Open Space		1.5 x 1,966.00		\$2,949.00	
Local Open Space		1.5 x \$711.00		\$1,066.00	
Footpath		N/a			
Cultural facilities		1.5 x \$169.00		\$254.00	
Library facilities		N/a			
Other		N/a			
		NET TOTAL		\$4,269.00	

Conclusion

The proposal is for a simple styled, single storey, secondary dwelling. The proposed secondary dwelling meets the floor space and setback requirements of the relevant planning controls. As discussed, the site is flood affected and the secondary dwelling will be raised a maximum of 770mm above natural ground level to accommodate for the overland flow path. Whilst this will result in a bulky appearance of the proposed structure, the secondary dwelling is unlikely to be dominant or become overbearing on the principle dwelling and adjoining residences due to the appropriate setbacks and by the provisions of the conditions of consent. Additionally, a special condition of consent has been imposed to ensure that adequate covered car parking space is provided to satisfy the requirements of Penrith DCP 2014.

The proposed development has been assessed against the relevant heads of considerations in section 4.15 of the Environmental Planning and Assessment Act 1979 and has been found to be satisfactory. Despite minor non-compliance in regard to the landscaped area, the site is considered appropriate for the proposed development and the likely impacts have been considered and found to be satisfactory. Overall, the proposal is considered worthy of support.

Recommendation

The DA18/1246 for the construction of detached secondary dwelling is recommended for approval, subject to the attached conditions.

General

1 A001

The development must be implemented substantially in accordance with the following plans stamped approved by Council, BASIX Certificate No. 979074s, the application form and any supporting information received with the application and by the following conditions.

Drawing Title	Prepared By	Reference No.	Dated	Issue
Site Plan/ Site Analysis	Star Drafting Services	Sheet 1 of 5	19/02/2019	-
Erosion Plan	Star Drafting Services	Sheet 2 of 5	19/02/2019	-
Piers Plan	Star Drafting Services	Sheet 3 of 5	19/02/2019	-
Floor Plan	Star Drafting Services	Sheet 4 of 5	19/02/2019	
Elevations/ windows schedule/section	Star Drafting Services	Sheet 5 of 5	19/02/2019	

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 A009 - Residential Works DCP (no specific section)

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

4 A019 - OCCUPATION CERTIFICATE (ALWAYS APPLY)

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

5 A046 - Obtain Construction Certificate before commencement of works

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

6 A SPECIAL - MATERIALS – SCHEDULE OF EXTERNAL FINISHES TO BE SUBMITTED

Prior to the issue of a Construction Certificate a schedule detailing all external materials, colours and finishes including windows, doors and roofing materials shall be submitted to the Principal certifying Authority.

All external materials, colours and finishes including windows and doors and roofing materials must be of high quality and compatible with those of the surrounding streetscape and locality. All external materials and colours shall be of low glare and reflectivity.

7 A Special (BLANK)

Future subdivision (including Torrens Title or Strata) of the subject land will not be permitted in accordance with Clause 24 of State Environmental Planning Policy (Affordable Rental Housing) 2009.

8 A Special (BLANK)

Prior to the issues of a Construction Certificate, amended plans shall be submitted and approved by Council, demonstrating that at least one (1) covered car parking space in the form of a car port be provided on site. The single space is to be provided in association with the principal dwelling and must be located behind the front building line.

Environmental Matters

9 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.

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

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

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

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

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

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

BCA Issues

12 **E001 - BCA compliance**

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

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

(b) formulating an alternative solution which:

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

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

Utility Services

13 **G004 - Integral Energy**

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

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

Construction

14 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.

15 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.

16 H014 - Slabs/ footings

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

17 H018 – Load bearing walls

A certificate from a qualified practising Structural Engineer shall accompany the Construction Certificate application, certifying the structural adequacy of all load bearing walls prior to their erection.

18 **H020 – AS2870**

All reinforced concrete footings and slabs are to be designed to suit the soil conditions in accordance with AS2870-1996 "Residential Slabs and Footings".

19 **H030 – Roof finishes (rural property)**

The roof of the structure is to be a dull, non-reflective surface and colour.

20 **H032 - Painting**

The building is to be painted internally and externally.

21 **H033 – Clothes line**

Clothes drying facilities are to be positioned and screened from public view.

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

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

25 [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

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

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

27 [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 City Works Department on (02) 4732 7777 or visit Penrith City Council's website for more information.

28 **K202 - S138 Roads Act – Works and Structures - Minor Works in the public road DRIVEWAYS ROAD OPENINGS**

Prior to the issue of any Construction Certificate, a Section 138 Roads Act applications, including payment of application and inspection fees, shall be lodged 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) Concrete footpaths and or cycleways
- c) Road opening for utilities and stormwater (including stormwater connection to Penrith City Council roads and other Penrith City Council owned drainage)
- d) Road occupancy or road closures
- e) The placement of hoardings, structures, containers, waste skips, signs etc. in the road reserve
- f) 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 City Works Department on (02) 4732 7777 or visit Penrith City Council's website for more information.

Note:

- a) Where Penrith City Council is the Certifying Authority for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
- b) Separate approvals may also be required from the Roads and Maritime Services for classified roads.
- c) All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate or Subdivision Certificate as applicable.
- d) On completion of any awning over the road reserve, a certificate from a practising structural engineer certifying the structural adequacy of the awning is to be submitted to Council before Council will inspect the works and issue its final approval under the Roads Act

29 **K209 - Stormwater Discharge – Minor Development**

Stormwater drainage from the site shall be discharged to the:

- a) Street drainage system in Barker Street through provision of a charged line system

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

Prior to the issue of a Construction Certificate, the Certifying Authority shall ensure that the proposed method of stormwater discharge has been designed in accordance with Penrith City Council's adopted '*Stormwater Drainage Specification for Building Developments*' Section 5.2 *For Single Residential Dwellings, Additions and Outbuildings - Alternative Drainage Options*. Full details demonstrating compliance are to be submitted with the application for a Construction Certificate.

30 **K214 - Flooding – Floor levels**

Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that all habitable floor levels are in accordance with the stamped approved plans with a minimum floor level of RL 59.8m AHD (standard flood level + 0.5m freeboard).

31 **K219 - Flooding - Flood Proofing**

Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that all electrical services associated with the proposed building works are adequately flood proofed in accordance with Penrith City Council's Development Control Plan relating to flood liable land. Flood sensitive equipment (including electric motors and switches) shall also be located above RL 59.8 m AHD (standard flood level + 0.5m freeboard).

32 **K221 - Overland Flow - General**

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

- a) The proposed development will not concentrate, dam or divert overland flows onto adjoining properties.
- b) That any cladding to enclose the sub-floor area is of an open style to allow the free passage of overland flows.

Details prepared by a qualified person, demonstrating compliance with these requirements, shall form part of any Construction Certificate issued.

33 **K401 - Flooding – Surveyor Verification of floor levels**

A certificate by a registered surveyor verifying that all habitable floor levels are at or above RL 59.8 m AHD (standard 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 Principal Certifying Authority.

34 **K501 - Penrith City Council clearance – Roads Act/ Local Government Act**

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

Landscaping

35 **L001 - General**

A landscape plan prepared by a qualified landscape architect or landscape consultant to a scale of 1:100 or 1:200, conforming to all relevant conditions of consent is to be submitted to the satisfaction of the Principal Certifying Authority with the Construction Certificate application.

The plan must include the following information:

- location of all existing and proposed landscape features including materials to be used;
- demonstrating the removal of the hardstand area in the rear of the site and replacement with deep soil landscaping; and
- a detailed plant schedule which includes proposed species listed by botanical (genus and species) and common names, quantities of each species, pot sizes and the estimated size at maturity.

Consideration within the design should be given to the scale of planting in proportion to the proposed development, consistency with the existing landscape character of the area, potential views, solar access and privacy for neighbouring development.

36 **L006 - Aust Standard**

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

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

37 **L012 - Existing landscaping (for existing development)**

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

38 **L Special (BLANK)**

Evergreen shrubs with a minimum 5 litre container size achieving a minimum mature height of 3m shall be planted along the northern and southern side boundaries adjacent to the secondary dwelling to provide suitable privacy screening. Screen planting shall be maintained at all times.

Details of the selected plants shall be submitted to and approved by the Principal Certifying Authority. Compliance with this condition shall be certified by the Principal Certifying Authority, prior to the issue of an Occupation Certificate.

Development Contributions

39 **N001 - Section 94 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, \$254 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 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.

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

This condition is imposed in accordance with Penrith City Council's Section 7.11 Contributions Plan(s) for District Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$2,949.00 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 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The S94 invoice accompanying this consent should accompany the contribution payment. The Section 7.11 Contributions Plan for District Open Space may be inspected at Council's Civic Centre, 601 High Street, Penrith.

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

This condition is imposed in accordance with Penrith City Council's Section 7.11 Contributions Plan(s) for Local Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$1,066.60 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 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 Local Open Space may be inspected at Council's Civic Centre, 601 High Street, Penrith.

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/use of the development.

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

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

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part C - City-wide Controls

C6 Landscape Design

Whilst no landscape plan was submitted in with the application, the site plan demonstrated that the new landscaped area on site will be approximately 47% (384.05m²) and results in a shortfall from the 50% (408.8m²) requirement of Section D2 of the Penrith DCP 2014. Notwithstanding this, the non-compliance is considered acceptable on a merit basis as the subject site is irregularly shaped and the shortfall is considered minor in nature. Additionally, the secondary dwelling will be located at the rear of the site and as such will not impact on the landscaped area within the front setback and consequently will not detract from the streetscape presentation of the site.

Note: Whilst there is a small grassed portion along the southern side boundary adjacent to the driveway, it has not been included in the total landscape calculations as it is less than 2.00m in width along its entirety.

C10 Transport Access and Parking

Under the provisions of Section 10.5.1, of Chapter 10, all residential development is required to provide at least (1) covered car parking space. By viewing ariel photographs of the site, it can be seen that a car port was located adjacent to the principle dwelling prior to 2017. Currently, there is no covered car parking on the site. Accordingly, a special condition of consent has been imposed for the applicant to provide Council with amended plans demonstrating the provision of a covered car parking space (carport) behind the building line of the principle dwelling.

D2 Residential Development

The following is an assessment of the proposals compliance with the relevant provisions contained within Section 2.3 of D2- Residential Development

Development Control	Required	Proposed	Compliance
Minimum lot size	The minimum lot size for a secondary dwelling is 450m ² .	The subject site has a total site area of 817.6 m ² .	Yes
Conversion of existing building	N/a	N/a	N/a
Number of bedrooms	Secondary dwellings shall have a maximum of two bedrooms.	Two (2) bedrooms are proposed	Yes
Building Envelope	Development is to comply with the building envelope for the site. The building envelope means a height plane over the site at 45 degrees from a specified height above natural ground level at the side boundaries of the site		Yes

Development Control	Required	Proposed	Compliance
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Landscaping	The minimum lot size for a secondary dwelling is 450m ² .	47%	No – refer to discussion under part C City Wide Controls
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Development Control	Required	Proposed	Compliance
1) Conversion of existing building	N/a	N/a	N/a
2) Balconies and decks	All balconies and decks higher than 800mm above existing ground level shall incorporate privacy measures such as screening or landscape planting.	The maximum height the proposed patio is 770mm	Yes
3) Controls for new secondary dwellings	For new secondary dwellings, the following controls apply: a) Secondary dwellings must be located behind the front building line of the primary dwelling; b) The minimum setback to the secondary street frontage is 3m; c) The minimum side setback for a detached secondary dwelling is 900mm; d) The minimum rear setback for a detached secondary dwelling is 3m; and e) Were located above a garage facing a rear laneway, the building may be built to the rear boundary.	a) The proposed secondary dwelling is located in the rear yard. b) N/a c) The proposal results in a setback of 1.8m from the southern side boundary and 1.73 from the northern side boundary d) The proposed rear setback is excess of 3m e) N/a	Yes

4) Additional controls	Notwithstanding any compliance with the front, side and rear setback controls, the applicant must also demonstrate that the proposed building setbacks: a) Maintain the established street character; b) Allow neighbours adequate access to sunlight and views; c) Preserve established tree and vegetation corridors; d) Provide adequate separation between buildings to protect adjoining buildings from overlooking and loss of amenity; and e) Reduce the visual bulk of new building work.	a) No impact on street character. b) The secondary dwelling is not located in proximity to habitable areas in adjoining sites. c) There are no trees or vegetation d) The proposal provides appropriate setbacks and will result in minimal impacts on residential amenity and unlikely to provide opportunities for overlooking. e) As previously discussed the secondary dwelling is required to be raised above natural ground level to accommodate for the overland flow path on the site. This has subsequently resulted in a built form that presents as quite a bulky structure. Notwithstanding this, there proposal provides appropriate side and rear setbacks and the 1.8m boundary fence will conceal some the bulk. Overall the proposed secondary dwelling does not result in structure that considered excessively overbearing or dominant over neighbouring properties.	Generally complies
Development Control	Required	Proposed	Compliance
1) Usable private open space	The secondary dwelling must have more than 24m ² of usable private open space	There is an area of 52m ² to the rear of the proposed secondary dwelling	Yes
2) Width	The private open space area must be more than 4m wide.	Complies	Yes

3) Accessibility	The living area of the secondary dwelling should connect to the private open space areas	The private open space associated with secondary dwelling is directly to its rear within the backyard, towards the eastern rear boundary of the subject site. This area can be accessed from the patio.	
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Development Control	Required	Proposed	Compliance
1) Complement the primary dwelling	Secondary dwellings must complement and enhance the primary dwelling on site by interpreting and translating any positive characteristics found on site in terms of construction, façade design and materials.	No schedule of external colours and finishes was provided with the plan set.	Yes – to be conditioned
2) Materials to be avoided	Metal or corrugated iron materials should be avoided, with the exceptions of roofs	Refer to above discussion.	Yes – to be conditioned
3) Compatibility with area	External building materials and their colours should be compatible with the character of the locality.	Refer to above discussion.	Yes – to be conditioned

Development Control	Required	Proposed	Compliance
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1) Minimum facilities	1) As a minimum, the secondary dwelling should include: a) A kitchen/kitchenette; b) A bathroom; c) A living room; and d) A bedroom.	All the listed facilities are provided within the secondary dwelling.	Yes
2) Laundry facilities	A common laundry may be provided to service both the principal and secondary dwellings.	The proposed secondary dwelling is self-contained with its own laundry facilities.	N/a