

# PENRITH CITY COUNCIL

## FAST LIGHT ASSESSMENT REPORT

<b>Application number:</b>	DA20/0463
<b>Proposed development:</b>	Two Storey Dwelling, & Swimming Pool
<b>Property address:</b>	22 Medinah Avenue, LUDDENHAM NSW 2745
<b>Property description:</b>	Lot 236 DP 270417
<b>Date received:</b>	30 July 2020
<b>Assessing officer</b>	Paul Buttigieg
<b>Zoning:</b>	E4 Environmental Living - LEP 2010
<b>Class of building:</b>	Class 1a , Class 10b
<b>Recommendation:</b>	Approve

### Executive Summary

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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

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The subject site is situated on the western side of Medinah Avenue Luddenham. It is 4303<sup>2</sup>m in area, is orientated in an eastern direction and has slope falling to the north eastern side of the lot.

An inspection of the site was undertaken on 20/08/2020 and the site is currently vacant.

The surrounding area is characterised by large lot residential development.

### Proposal

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The proposed development involves:

Construction of a double storey dwelling and a swimming pool including parking, landscaping and associated drainage works.

## Plans that apply

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BUSHFIRE PRONE LAND (PARTLY)  
1996 CENSUS COLLECTORS DISTRICT  
PENRITH DCP 2014  
DRAFT AMENDMENT - DCP 2014 HOUSEKEEPING  
DRAFT LEP 2010 (REVIEW PHASE 1)  
GENERAL LIST  
MISC - AGRICULTURAL ACTIVITIES WITHIN RURAL AREAS  
DEV/BLD - RATU - SEE 88B  
LEP 2010 - Twin Creeks Controls  
DCP 2014 - Tree Preservation Controls  
LEP 2010 - Dual Occupancy and Secondary Dwellings  
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  
AIRPORT - 20-25 ANEF  
ADDIT. - INTRO. MESSAGE  
Local Environmental Plan 2010  
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  
E4 Environmental Living - LEP 2010  
LEP 2010 - Clause 4.2A Res Devel and Subdn Prohib  
LEP 2010 - Clause 7.21 Twin Creeks  
LEP 2010 - Additional Land Use Notes

## Planning Assessment

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### • Section 4.14 - Bushfire prone land assessment

The development has been assessed in accordance with the matters for consideration under Section 79BA (Consultation and development consent—certain bush fire prone land) of the Environmental Planning and Assessment Act 1979, and having regard to those matters, the following points are made:

The site is identified as being partly bushfire prone land.

An inspection of the subject site and surrounds was carried out on 20/08/2020.

A BAL assessment carried out by Bushfire Planning and Design was submitted and has been taken into consideration.

The bushfire hazard is identified as being grassy woodlands to the south of the dwelling.

The slope under the hazard is upslope / flat

The distance between the threat and the dwelling is approximately 92 meters.

The development is subject to a bushfire attack level of BAL-12.5 and as a minimum will be constructed to this level in accordance with AS3959. A condition will be provided.

### • 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?

**Complies - 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 - See discussion**

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 - See discussion**

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 - See discussion**

### 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 **Complies - See discussion**

Acoustic requirements provided for the development **Complies - See discussion**

### 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?	<b>Yes</b>
Does the proposal fit locality?	<b>Yes</b>
Are the site attributes conducive to development?	<b>Yes</b>
Will the proposal have minimal social and economic impacts on the locality?	<b>Yes</b>
Has any applicable 88b instrument been considered?	<b>Yes</b>
Does the development propose the removal of trees?	<b>No</b>
Have the plans been checked by any relevant developer groups?	<b>Yes</b>
Has a BASIX certificate been provided?	<b>Yes</b>

## 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? **Yes**

**Development Application No.: DA20/0463**  
**Proposed: Construction of a double storey dwelling**  
**Address: 22 Medinah Avenue Luddenham**

In accordance with the Act and Regulations, consideration has been given to any necessary referrals and any submissions made.

### Community Consultation-

In accordance with the Penrith Development Control Plan 2014 Appendix F4 Notification and Advertising, the proposed development was notified to nearby and adjoining residents.

Council notified 3 residence in the area and the exhibition period was between 10 August 2020 and 24 August 2020. Council has received 1 submissions in response.

The following issues were raised in the submission received and have formed part of the assessment.

#### 1. Privacy:

*The windows on the northern side of the proposed development would look directly into our yard and home.*

*We have planted shrubs along that adjoining boundary which may supply some degree of privacy from their lower level windows, but does not allow us privacy from the upper floor level.*

*The height differential of the two dwellings is exacerbated by the slope of the land, lot 236 being noticeably higher.*

*We note the proposal has a very private courtyard and we request our privacy be respected also.*

#### Conclusion:

The following points are made-

The site is zoned E4- Environmental Living under Penrith's Local Environmental Plan 2010. Double storey dwellings are permissible within E4 zoned areas;

All set back requirements have been met and the proposed dwelling does not exceed the maximum building height for the area;

The proposed dwelling has been sited well within the prescribed building envelope; and

The development has also been approved by Twin Creeks design panel.

- Amended plans have been received showing the use of high sill windows at a sill height of 1.5m in low use rooms. Both the gym and bedrooms are considered low use rooms, therefore these windows are deemed satisfactory in this instance.
- Amended plans have been received showing privacy screens fitted to the balcony serving bedroom 3. A condition of consent will be provided which reads "A fixed louvre style privacy screen that will limit horizontal and downward viewing is to be fitted to the balcony northern elevation which extends to a height of 1.8m. The screen is to also extent around the eastern elevation for 1m at a height of 1.8m"
- To ensure privacy is maintained at (W17) Transition window a condition of consent will be provided which reads " W17 is to be a fixed window constructed of obscure or frosted glazing"

With the above points being made the privacy concerns raised have been adequately addressed. The application will be supported with a recommendation for approval.

## Section 4.15(1)(e)Public Interest

The application will have minimal impacts on public interest

**Complies**



## **Conclusion/Summary**

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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**

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1. That DA20/0463 for construction of a double storey dwelling and a swimming pool at 22 Medinah Avenue Luddenham, be approved subject to the attached conditions (Development Assessment Report Part B).



# CONDITIONS

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## General

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

The development must be implemented substantially in accordance with the plans drawn by Eco Factor Architects, numbered 1930, dated 17/09/2020, Issue C, as 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 - Privacy Screen](#)

A fixed louvre style privacy screen that will limit horizontal and downward viewing is to be fitted to the balcony serving Bedroom 3. The screen is to be fitted to the northern elevation of the balcony extending to a minimum height of 1.8m above floor level. The screen is to also return around the eastern elevation of the balcony for a minimum distance of 1m and be a minimum height of 1.8m above floor level.

6 [A special - Retaining Walls](#)

Any retaining walls which does not form part of this approval or cannot be constructed under the requirements of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 as Exempt Development will require separate written approval.

7 [A special - Transition Window W17](#)

Transition window W17 is to be a fixed window constructed of obscure or frosted glazing.

8 [A special \(A041\) - CONSTRUCTION IN BUSHFIRE AREAS](#)

The building shall be constructed in accordance with the provisions of "Planning for Bushfire Protection" November 2019, and to BAL-12.5 construction under AS3959-2018 "Construction of buildings in bushfire-prone areas.

## Environmental Matters

9 [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.

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

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

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.”}

11 **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.

12 **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 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.

13 **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**

14 **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**

15 **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

### 16 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.

### 17 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).

### 18 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.

### 19 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.

20 **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.

21 **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.

22 **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.

23 **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.

#### 24 [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.

## Swimming Pools

#### 25 [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.

#### 26 [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".

#### 27 [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.

#### 28 [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).

#### 29 [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](http://www.swimmingpoolregister.nsw.gov.au) or in person at Penrith City Council (\$10 fee applies when registering at Council).

#### 30 [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

### 31 [K016 - Stormwater](#)

Roofwater drains shall be discharged into the street gutter or common line.

### 32 [K026 - Stabilised access](#)

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

### 33 [K041 - 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.

### 34 [K202 - Roads Act \(Minor Roadworks\)](#)

Prior to the issue of a Construction Certificate a Roads Act application, including payment of application and inspection fees shall be lodged with Penrith City Council, as the Roads Authority, for any of the following works:

- a) Provision of a vehicular crossing/s.
- b) Opening the road reserve for the provision of services including stormwater.
- c) Placing of hoardings, containers, waste skips, etc. in the road reserve.

All works within the road reserve shall be carried out in accordance with Penrith City Council's Design Guidelines and Construction Specification for Civil Works.

Penrith City Council (being the Roads Authority under the Roads Act) shall approve the works completed on or over the road reserve. Contact Council's **City Works Department** on (02) 4732 7777 to arrange an inspection of the works (and payment of inspection fees, if required).

### 35 [K501 Roads Authority clearance](#)

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall ensure that all works within the road reserve have been inspected and approved by Penrith City Council.

## Landscaping

### 36 [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.

### 37 [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

38 **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**

39 **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.

40 **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

### D1.2 Rural Dwellings and Outbuildings Complies Y/N Comments

#### 1.2.1 Siting and Orientation of Dwellings and Outbuildings

Dwellings and associated buildings should be sited to maximise the natural advantages of the land in terms of:

- i) Protecting the privacy of proposed and existing buildings;
  - ii) Providing flood-free access to the dwelling and a flood-free location for the dwelling itself;
  - iii) Minimising risk from bush fire by considering slope, orientation and location of likely fire sources;
  - iv) Maximising solar access;
  - v) Retaining as much of the existing vegetation as possible; and
  - vi) Minimising excavation, filling and high foundations by avoiding steep slopes (greater than 1 in 6). **Yes**
- b) The design of the development must consider all components including fencing, outbuildings, and driveways and landscaping. **Yes**
- c) Where practical, all buildings on a site, including dwellings and outbuildings, should be clustered to improve the visual appearance of the development in its landscape setting and reduce the need for additional access roads and services. **Yes**

#### 1.2.1 Landscape / Scenic Character

a) Buildings on sloping land should be sited (where natural features permit) so they do not intrude into the skyline.

**N/A**

- b) Buildings should not be placed on the ridgeline or peak of any hill unless there are no alternative locations possible. **N/A**
- c) Where practical, buildings should be sited to take advantage of existing vegetation to provide privacy from passing traffic and public places, screening from winds and a pleasant living environment **Yes**
- d) Roads should be designed and located to run with the contours of the land. **N/A**
- e) Rooflines and ridgelines should reflect the setting of the dwelling, incorporating simple shapes to step a building down with a sloping site or level change. **Yes**
- f) Simple rooflines should be used to minimise the likelihood of twigs and leaves building up in valleys and presenting a bushfire hazard. **No- The development is required to have a minimum construction level of BAL 12.5.**

#### 1.2.2 Setbacks and Building Separations

##### 1) Setbacks from Roads

- a) A minimum setback of 15m from public roads is required for all dwellings and outbuildings. Formal parking areas are not permitted within the setback. **Yes > 15m**
- b) A variety of setbacks will be encouraged to prevent rigidity in the streetscape. **Yes**
- c) A minimum setback of 30m is required to all classified roads (except Mulgoa Road), Luddenham Road, Greendale Road and Park Road (except in the villages of Londonderry, Wallacia and Luddenham). Please contact Council to discuss. **N/A**
- d) A minimum setback of 100m is required to Mulgoa Road for all dwellings and outbuildings (except in the Mulgoa Village). **N/A**

##### 2) Setbacks from Watercourses

- a) A minimum setback of 100m is required from the Nepean River. This is measured from the top of the bank. The river includes all elements, such as lagoons and backwaters. Council will determine the minimum setback required if the "bank" is difficult to define. **N/A**
- b) A variety of setbacks will be encouraged to prevent rigidity in the streetscape. **Yes**
- c) A minimum setback of 40m is required from any other natural watercourses for all dwellings and outbuildings to minimise impacts on the watercourse. **N/A**

##### 3) Building Separations and Side Boundary Setbacks

- a) Dwellings on adjacent properties should be considered when determining the location of a proposed dwelling to ensure that separation distances are maximised as far as is reasonably possible to maintain amenity for each dwelling and minimise noise and privacy intrusions. **Yes- Amended plans have been received showing sill heights raised to 1.5m for northern facing windows on the first floor. Privacy screening has been added to the balcony serving bedroom 3. A condition of consent has been added which requires the transition window (W17) on the first floor to be constructed from obscured or frosted glazing.**
- b) The minimum side setback for dwellings is 10m where the allotment is 2 hectares or larger. **N/A**



c) The minimum side setback for dwellings is 5m where the allotment is less than 2 hectares. **Yes Contained within prescribed Building Envelope**

d) Dwellings on one allotment should be separated as much as reasonably possible from any farm buildings or other buildings on adjacent allotments where there is potential for noise generation from those farm buildings/other buildings. **N/A**

### 1.2.3 Site Coverage, Bulk and Massing

1) Dwellings shall have a maximum ground floor footprint of 500m<sup>2</sup> (including any undercover car parking areas).

Note: 'Ground floor footprint' is the area measured from the external face of any wall of any dwelling, outbuilding (other than a farm building), dual occupancy dwelling, garage or undercover car parking area, animal house or garden shed.

**No- 733m<sup>2</sup> – Dwelling**

**The proposed footprint exceeds the maximum allowable under the DCP.**

**A request for variation has been submitted in support of the application.**

**The proposed dwelling is in keeping with the surrounding area.**

**The proposed dwelling has been approved by Twin Creeks Design Panel.**

**The proposed development is considered to meet the objectives of the DCP and is unlikely to have a significant adverse impact upon the surrounding environment, adjoining properties or the streetscape. Therefore, the variation is supported in this instance.**

2) Dwellings shall have a maximum overall ground floor dimension of 45m, with a maximum of 18m at any one point.

**No- The proposed dwelling has an wall length which exceeds 18m.**

**The proposed dwelling is in keeping with the surrounding area.**

**The proposed dwelling has been approved by Twin Creeks Design Panel.**

**The proposed development is considered to meet the objectives of the DCP and is unlikely to have a significant adverse impact upon the surrounding environment, adjoining properties or the streetscape. Therefore, the variation is supported in this instance.**

3) The maximum floor space of any second storey is to be 70% of the floor space of the lower storey of the dwelling. **Yes**

4) No more than three (3) undercover car parking spaces shall face towards a public road or place. Any additional garages shall be setback behind the building line and screened. **Yes**

5) A maximum ground floor footprint of 600m<sup>2</sup> will be permitted on any one allotment, including the dwelling and all associated structures, but excluding 'farm buildings' and any 'agricultural or non-agricultural development' referred to other parts of this chapter.

**No- 733m<sup>2</sup> – Dwelling**

**The proposed footprint exceeds the maximum allowable under the DCP.**

**A request for variation has been submitted in support of the application.**

**The proposed dwelling is in keeping with the surrounding area.**

**The proposed dwelling has been approved by Twin Creeks Design Panel.**

**The proposed development is considered to meet the objectives of the DCP and is unlikely to have a significant adverse impact upon the surrounding environment, adjoining properties or the streetscape. Therefore, the variation is supported in this instance.**

### 1.2.4 Height, Scale and Design

a) Dwellings shall be no more than two storeys in height, including garage and storage areas. **Yes Double storey**

b) If liveable rooms are located in the area immediately below the roof then this level will be counted as a storey. **Yes**

c) The maximum height of the ceiling of the top floor of all buildings should not exceed 8m above natural ground level. **Yes**

d) On sloping sites, split level development is preferred. The floor level of the dwelling at any point should not be greater than 1m above or below the natural ground level immediately below the floor level of that point. Cut and fill should be limited to 1m of cut and 1m of fill as shown in Figure D1.7.

**No- A request for variation has been provided for the proposed cut of 2.6m to the basement.**

**The proposed basement is setback 7m from the nearest boundary.**

**The cut is to be contained with the dwelling footprint.**

**The dwelling is site responsive with cut greater than 1m being limited to the pool and basement area.**

**The proposed dwelling is in keeping with the surrounding area.**

**The proposed dwelling has been approved by Twin Creeks Design Panel.**

**The proposed development is considered to meet the objectives of the DCP and is unlikely to have a significant adverse impact upon the surrounding environment, adjoining properties or the streetscape. Therefore, the variation is supported in this instance.**

Design and Quality

a) The design of dwellings and associated structures should be sympathetic to the rural character of the area. **Yes The design has been approved by Twin Creeks Design Review Panel**

b) Fencing is to be of an open rural nature consistent in style with that normally found in rural areas. Internal courtyard fencing or entry fencing should be sensitive to the rural environment. **Yes Existing**

### 1.2.7 Materials and Colours

1) Colours of external finishes should be in keeping with the natural surroundings, be non-reflective and utilise earthy tones, unless it can be demonstrated that the proposed colours and finishes will have no visual impact or will complement the rural character.

**Yes- The proposed dwelling is in keeping with the surrounding area.**

**The proposed dwelling has been approved by Twin Creeks Design Panel.**

2) Building materials with reflective surfaces such as large expanses of glass, unpainted corrugated iron, concrete blocks, sheet cladding or similar finishes should be avoided. Where these materials are unavoidable, they should be screened with landscaping to minimise visual impact. **Yes**

3) Re-sited dwellings may be considered in rural areas, however, the external finishes may be required to be upgraded to Council's satisfaction. **N/A**

## **Twin Creeks Guidelines**

### **Control Standard Complies Comments**

#### 2.1 Scale

- All two storey dwellings shall be restricted to a 1st floor area no greater than 70% of the ground floor area (this excludes the floor area of garages, verandahs etc.)
- The maximum size of any shed footprint shall be 100m<sup>2</sup> with a ground to eave height of 3.6m
- The maximum external wall height is 6.5m with the maximum permitted overall height above natural ground of 10m

**Yes- Approved by Twin Creeks Design Review Panel**

#### 2.2 Setback

All structures except those exempt from requiring development application approval shall be located within the building envelope defined below.

##### Large Lot

- 15m Front setback
- 5m side setback
- 10m rear setback

##### Small Lots

- **Located wholly within the defined building envelope under DP270417**
- **Check 88b for pool variation to above. Yes**

**Front- >15m**

**Contained within prescribed Building Envelope**

#### 2.3

##### 2.3.1 Building Form

- Roofs shall be of a pitch that is not considered excessively flat or steep to avoid the appearance of unconventional roof styles.
- Large roof expanses and gables are to be avoided. The use of verandah elements and second storey sections, are encouraged to break up roof lines.
- Consideration shall be given to the use of verandahs in keeping with a contemporary rural theme.
- The use of large glazed areas or reflective surfaces visible from areas external to the lot shall be avoided.
- The external walls of sheds and out buildings shall be constructed of a material compatible with the dwelling.

**Yes**

##### 2.3.2 External Colours and Finishes

- Building materials and colours shall compliment the semi rural character of the locality.

- The use of earthy or natural colour tones is encouraged whilst the use of bright or pastel tones on external walls, roofs or gables shall be avoided.
- Metal roofing material shall be pre coated with a colour compatible with the surrounding semi rural area. Galvanised metal roofs shall not be permitted.
- Details of external colours and finishes are to be submitted with the development application for approval by Council.

**Yes- Approved by Twin Creeks Design Review Panel**

2.3.3 Cut and Fill

- Where possible cut operations shall be avoided to prevent interference with the natural ground water flows and the water table.
- Cut and fill operations shall be restricted to a maximum of 1.0m cut and 1.0m fill.
- The lowest floor level of any building shall be no higher than 1.2m above natural ground level.

**No- A request for variation has been provided for the proposed cut of 2.6m to the basement.**

**The proposed basement is setback 7m from the nearest boundary.**

**The cut is to be contained with the dwelling footprint.**

**The dwelling is site responsive with cut greater than 1m being limited to the pool and basement area.**

**The proposed dwelling is in keeping with the surrounding area.**

**The proposed dwelling has been approved by Twin Creeks Design Panel.**

2.4

Height

- The height of the proposed dwelling should reflect the topography of the site and minimise cut and fill required to the site.
- The maximum permitted wall height is 6.5m. **Yes**

2.5 Privacy

- Dwellings should be designed to ensure maximum protection of privacy. This shall be achieved by screening opposing windows, balconies and yards with appropriate landscaping

**Yes- Amended plans have been received showing sill heights raised to 1.5m for northern facing windows on the first floor.**

**Privacy screening has been added to the balcony serving bedroom 3.**

**A condition of consent has been added which requires the transition window (W17) on the first floor to be constructed from obscured or frosted glazing.**

2.6

Solar Access

- Dwellings are to maximise solar access by placing windows in all exterior walls that are exposed to the northern sun.
- The siting and design of dwellings should aim to ensure that the proposed development provides a minimum of 3 hours sunlight between 9 and 3 on 21st June to living zones of each dwelling.

**Yes**

2.7

Landscaping

- The design and positioning of buildings shall give consideration of existing vegetation by minimising disturbance.
- Adequate landscaping shall be placed in the front of and to the side of dwellings to reduce the visual impact of development on adjoining dwellings.
- Landscaping should incorporate species indigenous to the area and those, which will not spread into adjoining bushland areas.
- Consideration shall be given to the positioning and species used to avoid damage to adjacent buildings and paving.

**Yes**

**No trees to be removed. Landscape plan provided.**

2.8 Drainage Control

- Stormwater from paved and roof areas should be gravity drained to the existing drainage system.
- The habitable floor areas of dwellings are to be constructed a minimum of 0.5m above the adjacent

1:100 year flood level.

**Yes Stormwater management system has been designed by a suitably qualified engineer.**

## 2.9 Soil and Water Management

- Best management practices are to be implemented to control runoff and soil erosion and to trap sediment in order to maintain satisfactory water quality in downstream areas.
- Sediment filter fence is to be installed downstream of construction areas.
- Site entry and exit shall be limited to one point and stabilized with coarse gravel.

**Yes**

**Shown on plans – condition to apply**

## 2.10

### Flora and Fauna Protection

- Significant flora and fauna habitats should be preserved by not disturbing, clearing, or under scrubbing areas of natural bushland on the lots.

**N/A**

## 2.11

### Vehicle Access and Parking

- Dwellings setback more than 20m shall make provision for a turning area to allow forward ingress and egress.
- Dwellings shall provide for a minimum of 2-garaged spaces.
- Driveways to be paved in bricks blocks or stone or finishes in coloured stenciled concrete.

**Yes**

## 2.12

### Acoustics

- Consideration to be given to 20-25 ANEF and/or private airfield on Luddenham Rd.

**Penrith LEP2010-**

### **7.9 Development of land in the flight paths of the site reserved for the proposed Second Sydney Airport**

**(3) Before determining a development application for development to which this clause applies, the consent authority—**

- (a) must consider whether the development will result in an increase in the number of dwellings or people affected by aircraft noise, and**
- (b) must consider the location of the development in relation to the criteria set out in Table 2.1 (Building Site Acceptability Based on ANEF Zones) in AS 2021—2000, and**
- (c) must be satisfied that the development will meet AS 2021—2000 with respect to interior noise levels for the purposes of—**
  - (i) if the development will be in an ANEF contour of 20 or greater—**

**The lot is identified as 20-25 ANEF effected according council mapping as identified on the 10.7 certificate.**

**According to Western Sydney Airport's noise modeling tool the site is currently located outside ANEC 20.**

**In accordance with Western Sydney Airport's noise modeling tool council is satisfied that additional acoustics requirements will not be required in this instance.**

## 2.13

### Fencing

- To comply with pattern book. **N/A - No change to existing**

## 2.14

### Fire Hazard

- Gateway to be constructed so as not to impede access to fire fighting vehicles. 'Y' shaped hard stand turn around area to be provided adjacent to each dwelling.
- Compliance with AS 3959
- Dwellings adjacent to or opposite bushland to have leaf proofing to roof valleys and gutters

**Yes- Bushfire assessment has been provided. The building is to be constructed to a BAL level of**

**12.5**

2.15

Energy Efficiency

- Compliance with BASIX. **Yes -A Basix certificate has been provided**

**Swimming pool**

Type: **In ground concrete pool**

Pool barrier Boundary: **N/A**

Setbacks / Distances:

Dwelling: **Complies located in private courtyard ,approximately 4m to family room**

CPR Area: **Complies- amended plans provided showing an increased clear area between water and barrier.**

Volume of water: **Pool- 54,000 liters**

BASIX required: **Provided**

Filter system, Connection to sewer or (Rural Cartridge): **Condition to apply**

Windows and Doors into pool area: **To comply with AS1926.1: 2012 Condition to apply**

Pool Fencing requirements AS1926: **Family room has been separated from the pool area by a barrier**

Sediment and erosion: **Condition to apply**

Cost: **\$1,500,000 including dwelling**

Developer Approval: **Provided**

Rural or Residential: **Large lot residential E4 zone**

Land Area: Landscaped Area: **Complies**

Lot size: **4303sqm**