

# PENRITH CITY COUNCIL

## MAJOR ASSESSMENT REPORT

<b>Application number:</b>	DA14/0015
<b>Proposed development:</b>	Dwelling House, Secondary Dwelling & Basement Garage
<b>Property address:</b>	22 Rodley Avenue, PENRITH NSW 2750
<b>Property description:</b>	Lot 51 DP 32844
<b>Date received:</b>	9 January 2014
<b>Assessing officer</b>	Clare Aslanis
<b>Zoning:</b>	ZONE NO 2(D) RES (MED DENS) LEP 1998 URB L
<b>Class of building:</b>	Class 1a
<b>Recommendations:</b>	Approve

### Executive Summary

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Council is in receipt of a development application for a single storey primary dwelling, with an attached secondary dwelling and a basement car park.

Under the Penrith Local Environmental Plan (Urban Land) 1998, the proposal is defined as a 'Dual Occupancy'. The subject site is zoned 2(d) Residential (Medium Density) and the proposal is a permissible land use in the zoning with Council consent under the State Environmental Planning Policy (Affordable Rental Housing) 2009.

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

A Development Application was approved under DA12/1352 for the demolition of the existing structures on the site and construction of a Dwelling and Attached Secondary Dwelling. A condition of approval required the floor level to be raised due to impacts from flooding.

### Site & Surrounds

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The subject site is situated on the southern side of Rodley Avenue approximately 295m from the intersection of Rodley Avenue and Mulgoa Road. The site is 556m<sup>2</sup> in area. The land is orientated in a north-south direction and is relatively flat. The property is occupied by a large two storey dwelling and various outbuildings.

The surrounding area is characterised by a mix of high and low density residential development. In the immediate locality a number of residential flat buildings are under construction. The site shares its southern boundary with Penrith Paceway.

### Proposal

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The proposed development includes the following aspects:

- Construction of a single storey primary dwelling and attached secondary dwelling.
- Construction of an basement garage, with an access ramp.

## Plans that apply

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- Penrith Local Environmental Plan 1998 (Urban Land)
- Development Control Plan 2006
- State Environmental Planning Policy (Affordable Rental Housing) 2009
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

## Planning Assessment

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### • Section 79C - Evaluation

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

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

#### State Environmental Planning Policy (Affordable Rental Housing) 2009

The proposed development is consistent with the aims of the policy. The proposal meets the definition of a Secondary Dwelling as it is to be used in conjunction with another dwelling on site, the site is not strata titled or community land and the dwelling is separated from the principal dwelling.

The relevant provisions of the ARH SEPP 2009 are discussed in turn below.

#### *Clause 20 - Land to which this Division applies*

The site is zoned 2(d) under LEP 1998 which is equivalent to an R3 Medium Density Residential zone under the ARH SEPP.

#### *Clause 22 - Development may be carried out with consent*

Clause 22 of the ARH SEPP provides a number of circumstances where consent cannot be granted for the purposes of a secondary dwelling, including:

Clause	Control	Comment
22(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.	The proposal will only result in there being a principal dwelling and a secondary dwelling on the land.
22(3)(a)	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, and	Clause 22 (3)(a) is not applicable as Penrith Local Environmental Plan (Urban Land) 1998 does not prescribe the maximum floor area for a dwelling house.

22(3)(b)	(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.	The secondary dwelling satisfies Clause 22(3)(b) as the total floor area is 43 square metres. A greater floor area is not permitted under Penrith Local Environmental Plan (Urban Land) 1998.
22(4)	A consent authority must not refuse consent to development to which this Division applies on either of the following grounds: (a) site area if: (i) the secondary dwelling is located within, or is attached to, the principal dwelling, or (ii) the site area is at least 450 square metres, (b) parking if no additional parking is to be provided on the site.	The application is not recommended for refusal therefore this clause is not applicable.
22(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).	The application is recommended for approval. In this regard the following is noted in relation to Clause 22(4): (a) (i) The dwelling is not within or attached to the principal dwelling. (ii) The site area is greater than 450 square metres being 557 square metres in area. (b) A parking space has not been allocated for the secondary dwelling.

#### *Clause 23 - Complying Development*

The application was made to Council as a Development Application and in this regard Clause 23 and Schedule 1 are not applicable as the application was not lodged as a Complying Development Certificate.

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

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

BASIX Certificate No. 460883S\_04 was submitted with the Development Application demonstrating compliance with set sustainability targets for water and energy efficiency and thermal comfort.

### **Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River**

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

### **Penrith Local Environmental Plan 1998 (Urban Land)**

<b>Provision</b>	<b>Compliance</b>
Clause 7 - Aims and Objectives of the Plan	Complies
Clause 9 - Zone Objectives	Complies
Clause 9 - Zone Permissible	Complies
Clause 10 - Subdivision controls	N/A
Clause 10 - Subdivision objectives	N/A

Clause 10A - Subdivision Glenmore Park	N/A
Clause 11 - Controls for Dual Occupancy and Multi-unit Housing	Complies
Clause 11 - Objectives for Dual Occupancy and Multi-unit Housing	Complies
Clause 12 - Building Envelope	Complies
Clause 12 - Maximum External Wall Height	Complies - See discussion
Clause 12 - Minimum Landscape	Complies
Clause 13 - Provisions for Environmental Performance	Complies
Clause 14 - Design Principles in development generally	Complies
Clause 15 and Schedule 3 - Development for additional purposes	N/A
Clause 16 - Activities Unaffected by this Plan	N/A
Clause 17 - Community Services and Infrastructure	N/A
Clause 18 - Temporary Use of Land	N/A
Clause 19 - Near boundary of Adjoining Zones	N/A
Clause 19A - Acquisition of Land	N/A
Clause 20 - Acquisition of Land reserved for roads	N/A
Clause 22 - Acquisition of Land within Zone 5(B), 6(B) or 7(A)	N/A
Clause 23 - Development of Land within Zone 5(B), 6(B)	N/A
Clause 24 - Acquisition of land within zone 6D by the Corporation	N/A
Clause 25 - Community use of educational establishments and tertiary institutions	N/A
Clause 26 - Additional matters for consideration for development in zones 6A, 6B or 6D	N/A
Clause 27 - Advertising of development applications for restaurants and kiosks in Zone No.6A, 6C or 6D	N/A
Clause 28 - Tree Preservation	Complies
Clause 29 - Prohibited access	N/A
Clause 30 - Development on contaminated land	N/A
Clause 31 - Development for the purposes of advertisement	N/A
Clause 32 - Flood Liable Land	Complies
Clause 33 - Development of certain land for medical centres	N/A
Clause 34 - Consent required for subdivisions	N/A
Clause 35 - Development of land at North Penrith	N/A

Clause 36 - Thornton Hall and land in the vicinity	N/A
Clause 37 - Land in the vicinity of Combewood	N/A
Clause 37A and Schedule 5 - Claremont Meadows Stage 2	N/A
Clause 38 - Development of the Werrington Mixed Use Area	N/A

#### **Clause 12 - Maximum External Wall Height**

- The maximum external wall height required is 6.5m, development proposes approximately a 6m external wall height.

#### **Clause 12 - Minimum Landscape**

- The minimum landscape area required is 40%. The development proposes 40.08%, including the proposed 300mm deck soil on a concrete slab in the western courtyard. It is however recommended that this area be paved the definition for *landscaped area* within the Penrith Local Environmental Plan 1998 (Urban Land) is as follows:

"**landscaped area**, of a site, means that part of the site not occupied by a building and which is predominantly landscaped with gardens, lawns, shrubs and trees and is available for the use and enjoyment of the occupants of the site. It does not include areas used for driveways, parking areas, garbage storage areas or any area less than 2 metres wide, except a verge at least 1 metre wide that is located next to a driveway and landscaped with trees and shrubs, but may include a verandah associated with a landscaped area."

This does not require soil to be included as landscaped area and paving would be more suitable within this area.

#### **Clause 12 - Building Envelope**

- The development is non compliant with the 45° building envelope specified in the LEP. Due to possible flooding on site the dwellings have been raised 1300mm above natural ground level, resulting in a small amount of roof eaves outside the control line. Clause 12(6) of the LEP allows Council to consent to a non compliance on the grounds of improved design, external appearance or utility of the proposed building.
- To minimise the impact of loss of privacy, overshadowing and loss of views, adjoining dwellings will be screened by a 1.8m high fence to the western courtyard. Also, window 09 in the guest room, window 07 in the TV room, window 05 in the family room are to be obscured and raised to be 1.5m high sill. Also, the western elevation of the proposed development will provide a timber slat privacy screen, to further maintain privacy to the adjoining property.

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

The Stage 2 Penrith Planning Proposal was placed on public exhibition on 13 May 2013. The relevant sections of the Planning Proposal have been reviewed and under the Stage 2 LEP a draft zone of R4 High Density Residential will apply to the subject site.

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

### Development Control Plan 2006

Provision	Compliance
Chapter 2.1 - Contaminated land	N/A
Chapter 2.2 - Crime prevention through environmental design	Complies
Chapter 2.3 - Engineering works	Complies
Chapter 2.4 - Erosion and sediment control	Complies
Chapter 2.5 - Heritage management	N/A
Chapter 2.6 - Landscape	Complies
Chapter 2.7 - Notification and advertising	Complies
Chapter 2.8 - Significant trees and gardens	N/A
Chapter 2.9 - Waste planning	Complies
Chapter 2.10 - Flood liable land	Complies
Chapter 2.11 - Car parking	Complies
Chapter 2.12 - On-site sewage management	N/A
Chapter 2.13 - Tree preservation	Complies
Chapter 4.3 - Residential (dual occupancy)	Does not comply - see Appendix - Development Control Plan Compliance
Chapter 4.8 - Construction works	Complies

## Section 79C(1)(a)(iiia) The provisions of any planning agreement

There are no planning agreements applying to this application.

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

### *Fire safety*

In accordance with Section 143 of the Environmental Planning and Assessment Regulation 2000, an assessment of the fire protection and structural capacity of the proposed building is necessary.

The application has been referred to Council's Building Surveyors for assessment and the proposal was supported.

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

The development is not likely to have negative impacts on the existing surrounding development. All impacts are reduced through screening and raised windows, which is considered acceptable within a future high density zone.

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

The site is suitable for the following reasons:

- The site is zoned to permit the proposed use
- The use is compatible with surrounding/adjointing land uses
- The grade of the site is suitable for the design proposed
- The site is able to drain to Council's satisfaction

## Section 79C(1)(d) Any Submissions

## Referrals

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

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

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

The proposed development will not generate any significant issues of public interest.

## Section 94 - Developer Contributions Plans

The following Section 94 plans apply to the site:

- Section 94 - District Open Space Facilities
- Section 94 - Cultural Facilities
- Section 94 - Penrith City Local Open Space

The following Section 94 calculations apply to the proposed development.

Calculation for Secondary Dwelling		
AMOUNT		
S.94 Contribution Plan	Contribution Rate x Calculation rate	Total
District Open Space	$1.5 \times \$1,804.00$	\$2,706.00
Local Open Space	$1.5 \times \$652.00$	\$978.00
Cultural facilities	$1.5 \times \$135.00$	\$203.00
	<b>NET TOTAL</b>	<b>\$3,887.00</b>

## Conclusion

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 DA14/00015 for a single dwelling and basement garage at 22 Rodley Avenue, Penrith be approved subject to the attached conditions.



# CONDITIONS

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## General

### 1 [A001](#)

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

Plan	Number	Drawn By	Dated
Site & Floor Plans and Roof Plan	1108.DA01E	N.F. BILLYARD P/L	18 June 2014
Elevations & Sections Plan	1108.DA02E	N.F. BILLYARD P/L	18 June 2014

### 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 [A013 - SURRENDER OF PREVIOUS CONSENT](#)

Prior to the issue of a Construction Certificate for the development, development consent DA12/1352 shall be surrendered to Penrith City Council in accordance with the provisions of the Environmental Planning and Assessment Act, 1979.

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

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

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

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

### 7 [A Special \(BLANK\)](#)

The windows to the kitchen, family and TV rooms of the primary dwelling shall have a minimum 1.5m sill height or be provided with fixed and obscured glazing. These modifications shall be shown on the Construction Certificate plans.

### 8 [A Special \(BLANK\)](#)

Future strata subdivision of the approved development will not be permitted in accordance with Clause 24 of State Environmental Planning Policy (Affordable Rental Housing) 2009.

## Demolition

### 9 [B001 - Demolition of existing structures](#)

The existing dwelling on the subject site is to be demolished as part of the approved work.

### 10 [B006 - Hours of work](#)

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

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

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

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

## Environmental Matters

### 11 D001 - Implement approved sediment& erosion control measures

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

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

### 12 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.

### 13 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.

### 14 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.

### 15 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

### 16 E001 - BCA compliance

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

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

(b) formulating an alternative solution which:

- complies with the performance requirements, or
  - is shown to be at least equivalent to the deemed to satisfy provision, or
- (c) a combination of (a) and (b).

### 17 E005 - Smoke detectors-interconnect

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

## Health Matters and OSSM installations

### 18 F006 - Water tank & nuisance

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

## Utility Services

## 19 G004 - Integral Energy

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

## Construction

### 20 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.

### 21 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.

## 22 H005 - Section 80A (2) matters

The following matters are ancillary aspects of the development under Section 80A (2) of the Environmental Planning and Assessment Act, 1979. Appeal provisions will apply to the submission requirements regarding ancillary aspects of the development (see Sections 80A(3) and 97 of the Act).

(a) In order to provide adequate privacy screening to the external landing of the laundry details of the fencing and screening measures shall be submitted to and approved by the certifying authority.

## 23 H009 - Cut / fill details

Details of all excavations for the proposed building works, indicating the maximum cut and fill levels shall be provided for consideration and approval prior to the issue of a Construction Certificate. Cut and fill is limited to a maximum of 1 metre, in accordance with Penrith Residential Construction Works Development Control Plan.

## 24 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 AS 2870-1996 "Residential Slabs and Footings". Details are to be provided for consideration and approval prior to the issue of a Construction Certificate.

## 25 H015 - Termites

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

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

The rainwater tank(s) is to be:

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

Additionally, the following are to be provided:

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

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

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

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

27 **H037 - Safe supply of water from catchment areas (Also impose H036, H038 & H039)**

The catchment area (for the rainwater tank) includes the parts of the roof of the dwelling(s) from which water is collected and includes gutters. To ensure a safe supply of water:

- roof catchment areas must be kept clear of overhanging vegetation,
- gutters must have sufficient fall to downpipes to prevent pooling of water,
- overflow, discharge from bleed off pipes from roof mounted appliances such as airconditioners, hot water services and solar heaters must not discharge into the rainwater catchment area,
- for roofs containing lead based, tar based or asbestos material the tank supply must not be connected to drinking, bathing and gardening tap water outlets,
- appropriate measures must be installed to prevent foreign materials from contaminating the water which enters the rainwater tank.

28 **H038 - Connection of rainwater tank supply (Also impose H036, H037 & H039)**

The rainwater tank supply must not be connected to drinking and bathing water tap outlets.

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

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

30 **H041 - Hours of work (other devt)**

Construction works or subdivision works that are carried out in accordance with an approved consent that involve the use of heavy vehicles, heavy machinery and other equipment likely to cause offence to adjoining properties shall be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:

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

Other construction works carried out inside a building/tenancy and do not involve the use of equipment that emits noise are not restricted to the construction hours stated above.

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

## Engineering

31 **K041 - Bond (Author unknown) - Not adopted by Council**

An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Council's Public Infrastructure Assets. The bond is to be lodged with Council prior to the issue of a Construction Certificate. The bond is based upon the estimated value of the works with a bond of (\$500 for residential up to \$400000, \$1000 for development upto \$400000, min. \$2000 (or 0.5% of value) for development over \$400000) payable for the subject development.

The bond is refundable once a final inspection has been carried out by Council's Works Department and the works have been completed to Council's satisfaction. The bond may be used to repair or reinstate any damage that occurs to Council's Public Infrastructure Assets as a result of the development works. Contact Council's City Works Department on 4732 7777 or visit website to obtain the form and request for final inspection.

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

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

- a) Provision of a vehicular crossing/s.
- b) Removal of redundant vehicular crossings and reinstatement of kerb and gutter.
- c) Any verge regrading works.

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).

### 33 [K220](#)

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

- a) The proposed development will not concentrate, dam or divert overland flows by maintaining natural ground levels within the side and rear setbacks.
- b) The crest in the access ramp to the basement car park is a minimum of RL 27.5m AHD.
- c) The basement ventilation windows are located a minimum of RL 27.5m AHD.

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

### 34 [K222 Access, Car Parking and Manoeuvring – Minor Development](#)

**Prior to the issue of a Construction Certificate**, the Certifying Authority shall ensure that basement car park ramp is generally in accordance with the plan prepared by N. F. Billyard P/L, reference 1108.DA02D, revision D, dated 09/04/14. The gradient transitions of the basement car park ramp shall be reviewed, particularly in regard to grade transition at the property boundary. The Certifying Authority shall ensure that the basement car park ramp, access and parking are in accordance with AS 2890.1.

### 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 [L005 - Planting of plant](#)

All plant material associated with the construction of approved landscaping is to be planted in accordance with the Tree Planting Specification prescribed in Penrith Council's Landscape Development Control Plan.

### 37 [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.

### 38 [L008 - Tree Preservation Order](#)

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

## 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 94 Contributions Plan(s) for Cultural Facilities. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$203.00 is to be paid to Council prior to a Construction Certificate being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The S94 invoice accompanying this consent should accompany the contribution payment. The Section 94 Contributions Plan for Cultural Facilities may be inspected at Council's Civic Centre, 601 High Street, Penrith.

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

This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan(s) for District Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$2,706.00 is to be paid to Council prior to a Construction Certificate being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The S94 invoice accompanying this consent should accompany the contribution payment. The Section 94 Contributions Plan for District Open Space may be inspected at Council's Civic Centre, 601 High Street, Penrith.

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

This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan(s) for Local Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$978.00 is to be paid to Council prior to a Construction Certificate being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The S94 invoice accompanying this consent should accompany the contribution payment. The Section 94 Contributions Plan for Local Open Space may be inspected at Council's Civic Centre, 601 High Street, Penrith.

## Payment of Fees

42 **P001 - Costs**

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

43 **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

44 **Q01F - Notice of Commencement & Appointment of PCA2 (use for Fast Light only)**

Prior to the commencement of any earthworks or construction works on site, the proponent is to:

- (a) employ a Principal Certifying Authority to oversee that the said works carried out on the site are in accordance with the development consent and related Construction Certificate issued for the approved development, and with the relevant provisions of the Environmental Planning and Assessment Act and accompanying Regulation, and
- (b) submit a Notice of Commencement to Penrith City Council.

The Principal Certifying Authority shall submit to Council an "Appointment of Principal Certifying Authority" in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

### Information to accompany the Notice of Commencement

Two (2) days before any earthworks or construction/demolition works are to commence on site (including the clearing site vegetation), the proponent shall submit a "Notice of Commencement" to Council in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

45 **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 basement.

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 2006**

### **Part 2 - City wide controls**

#### **Part 4 (Chapter 4.3) - Dual occupancy**

The rear setback required for a two storey dwelling is 6m. The proposal has provided 4m to the rear (excluding the stairs to the rear yard), which is considered acceptable due to the single storey appearance of dwellings.