

# PENRITH CITY COUNCIL

## FAST TRACK ASSESSMENT REPORT

<b>Application number:</b>	DA14/0743
<b>Proposed development:</b>	Residential-Alterations and additions - Existing Outbuilding
<b>Property address:</b>	77 Lethbridge Street, PENRITH NSW 2750
<b>Property description:</b>	Lot 15B DP 344265
<b>Date received:</b>	25 June 2014
<b>Assessing officer</b>	Alicia Hunter
<b>Zoning:</b>	ZONE NO 2(D) RES (MED DENS) LEP 1998 URB L
<b>Class of building:</b>	Class 10a
<b>Recommendations:</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 556m<sup>2</sup> in area, is situated on the northern side of Lethbridge street and has a gentle slope from the rear to the south west corner.

An inspection of the site was undertaken on 21 August 2014 and the site is currently occupied by a single storey dwelling and the unauthorised secondary dwelling which is the subject of this application.

The surrounding area is characterised by residential development.

### Proposal

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The proposed development involves:

Use of the existing granny flat as a outbuilding.

### Plans that apply

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- Penrith Local Environmental Plan No.258 - Consent for dwelling houses and other development
- Penrith Local Environmental Plan 1998 (Urban Land)
- Development Control Plan 2006
- 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**

#### **Penrith Local Environmental Plan No.258 - Consent for dwelling houses and other development**

<b>Provision</b>	<b>Compliance</b>
All Clauses - Consent for dwelling houses and other development	Complies

Consent is required for dwelling houses and consideration has been given to this policy and the objectives have been satisfied.

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

Provision	Compliance
Clause 7 - Aims and Objectives of the Plan	Complies
Clause 9 - Zone Objectives	Complies
Clause 9 - Zone Permissible	Complies
Clause 12 - Building Envelope	Complies
Clause 12 - Maximum External Wall Height	Complies
Clause 12 - Minimum Landscape	Does not comply - See discussion
Clause 14 - for Design Principles	Complies
Clause 20 - Acquisition of Land reserved for roads	N/A
Clause 21 - Development 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 28 - Tree Preservation	N/A
Clause 29 - Prohibited access	N/A
Clause 30 - Development on contaminated land	N/A
Clause 32 - Flood Liable Land	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

#### Landscape Area

Under Clause 12 (7) of the Penrith LEP 1998 (Urban Lands) Council may consent to the erection of a non-habitable building or structure ordinarily associated with a dwelling-house that does not comply with minimum landscape requirements, if in the Council's opinion the structure will have minimal adverse impact on the subject site or any adjoining properties. The following comments have been provided in support of the variation to the standard:

- The existing outbuilding appears to be constructed in the 1970's, a search of Council's records indicates no approval exists for the structure. The existing outbuilding is currently occupied as a dwelling without consent. This Development Application is seeking consent for the structure to be approved as an outbuilding. Works to remove the kitchen, laundry and other such works are proposed as part of this application. It is noted that a Development Application was submitted to Council in 1977 (#10678) which describes the subject outbuilding as an existing garage.
- A Development Application DA12/0626 was submitted to Council in 2012 to seek approval for the outbuilding as a secondary dwelling. The application was subsequently refused.
- The overall deficiency in site landscaping area is considered to be minimal, and will not impact on the environmental features of the site and the potential for effective landscaping of the site.
- Achieving the numerical standard for the site will not change the outcome of development on the site.
- The reduction in landscape area does not exacerbate the developments scale, height or bulk.

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

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

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

The following draft Environmental Planning Instruments (EPI's) apply to the site:

Draft Penrith Local Environmental Plan 2010 (Stage 2).

The proposed development complies with the provisions of the Draft Penrith Local Environmental Plan 2010 (Stage 2).

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

#### **Development Control Plan 2006**

<b>Provision</b>	<b>Compliance</b>
Chapter 2.1 - Contaminated land	Complies
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	Does not comply - see Appendix - Development Control Plan Compliance
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	N/A
Chapter 2.11 - Car parking	Complies
Chapter 2.12 - On-site sewage management	N/A
Chapter 2.13 - Tree preservation	N/A
Chapter 4.2 - Residential (single dwellings)	Complies - see Appendix - Development Control Plan Compliance

### **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**

The proposed development complies with the requirements of the Regulations.

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

Likely impacts of the proposed development as identified throughout the assessment process include:

### **Impact raised in submissions**

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

### **Community consultation**

In accordance with Chapter 2.7 of the Penrith Development Control Plan for the City of Penrith 2006 – Notification and Advertising was notified to nearby and adjoining residents.

Council notified 7 residences in the area and the exhibition period was between 2 July 2014 and 16 July 2014. Council has received zero submissions in response.

### **Impacts raised in referral comments**

The Development Application was not required to be referred.

#### **(i) Context and Setting (environmental impacts and impacts on built environment)**

The proposal is consistent with the bulk, scale, colour and design of other development in the locality.

The development will have only minor impact on the amenity of the area and the streetscape.

The development is compatible with the surrounding and adjacent land uses.

It is considered the development will have no / or minimal impact on the amenity of the area in terms of Sunlight Access (overshadowing) / visual and acoustic privacy / views or vistas.

The development will have no impacts on natural environment.

#### **(ii) Access and transport**

The development will have no or minimal impact on the local road system.

The existing / proposed access arrangements and car parking on site will be adequate for the development.

#### **(iii) Heritage**

The property is not subject to any Heritage Order or identified as a heritage item under a planning instrument.

#### **(iv) Soil**

The proposed development will have no impact on soil erosion and sedimentation:

Adequate sedimentation and erosion controls are proposed as part of the development.

#### **(v) Natural and Technological Hazards**

The development is not subject to flooding, subsidence or slip.

#### **(vi) Site Design**

The proposed development is sensitive to environmental conditions and site attributes:

The proposed development safeguards the health and safety of the occupants:

### **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.

### **Section 79C 1(d) Any submission made in accordance with this Act or the regulations**

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

### **Community consultation**

In accordance with Chapter 2.7 of the Penrith Development Control Plan for the City of Penrith 2006 – Notification and Advertising was notified to nearby and adjoining residents.

Council notified 7 residences in the area and the exhibition period was between 2 July 2014 and 16 July 2014. Council has received zero submissions in response.

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

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

## **Conclusion**

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The site is suitable for the proposed development, 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 DA14/0743 for Existing Outbuilding at Lot 15B DP 344265 77 Lethbridge Street PENRITH, 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 numbered # 120621 and stamped approved by Council, the application form 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 \(Always apply to building works over \\$12,000\)](#)

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 [A020 - Use of building](#)

The existign outbuilding shall not be used under any circumstances for any commercial, industrial or habitable residential activity.

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

Prior to the use of the outbuilding the requested works must be carried out. Documentation certifying the requested works have been carried out must be submitted to Council within three months of the date of consent.

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

The existing internal fence must be removed.

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

The existing kitchen must be removed.

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

The existng laundry must be removed.

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

The existing doorbell and street signage must be removed.

## BCA Issues

9 [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).

## Construction



#### 10 [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.

#### 11 [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.

## Landscaping

#### 12 [L012 - Existing landscaping \(existing developments\)](#)

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

# **Appendix - Development Control Plan Compliance**

## **Development Control Plan 2006**

### **Part 4 (Chapter 4.2) - Single dwellings**

#### **Part 4 (Chapter 4.2) - Single Dwellings**

##### **Landscape Area**

The proposed development does not comply with the minimum landscape area requirements detailed in the Penrith Development Control Plan (DCP) 2006. The following comments have been provided in support of the variation to the standard

- The overall deficiency in site landscaping area is considered to be minimal, and will not impact on the environmental features of the site and the potential for effective landscaping of the site.

- Achieving the numerical standard for the site will not change the outcome of development on the site.

- The reduction in landscape area does not exacerbate the developments scale, height or bulk.

The subject outbuilding does not comply with front setback requirements detailed in the Penrith DCP 2006. The following comments have been provided in support of the variation to the standard:

- The existing outbuilding is setback 1.62m from the front boundary.

- The existing outbuilding appears to be constructed in the 1970's, a search of Council's records indicates no approval exists for the structure. The existing outbuilding is currently occupied as a dwelling without consent. This Development Application is seeking consent for the structure to be approved as an outbuilding. Works to remove the kitchen, laundry and other such works are proposed as part of this application. It is noted that a Development Application was submitted to Council in 1977 (#10678) which describes the subject outbuilding as an existing garage.

- A Development Application DA12/0626 was submitted to Council in 2012 to seek approval for the outbuilding as a secondary dwelling. The application was subsequently refused.

- It is considered that returning the use of the structure to an outbuilding is a satisfactory outcome.

- In accordance with Council's Notification Policy the application was notified to adjoining neighbours and no objections were received.