

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA13/0496.02
Proposed development:	Section 96 Modification to an Approved Torrens Title Subdivision to Enable the Retention of Bamboo and Amend Requirements of the NSW Rural Fire Service.
Property address:	39 - 51 Devlin Road, CASTLEREAGH NSW 2749
Property description:	Lot 7 DP 17231
Date received:	12 September 2014
Assessing officer	Lauren Van Etten
Zoning:	RU4 Primary Production Small Lots - LEP 2010
Class of building:	N/A
Recommendations:	Approve

Executive Summary

Council is in receipt of an application which proposes a Section 96(2) Modification to an approved 2 lot Torrens Title Subdivision to enable the retention of bamboo to the south and east of the existing dwelling and amend the requirements of the NSW Rural Fire Service.

Under Penrith Local Environmental Plan 2010, the subject site is zoned RU4 Rural Small Holdings and subdivision is a permissible land use in accordance with Clause 2.6 of the LEP.

The site is mapped to be affected by bushfire and the application is seeking modification to the General Terms of Approval (GTA's) issued by the NSW Rural Fire Service (RFS) under DA13/0496. Therefore the modification is integrated in accordance with Section 91 of the Environmental Planning & Assessment Act 1979 ('The Act'). The development application was referred to the NSW Rural Fire Service who raised no objection to the modification subject to amended GTA's which require Asset Protection Zones and bushfire protection upgrades for the existing dwelling on the site, including the removal of the existing stands of bamboo located on the dwelling's western and northern elevations.

The subject site contains endangered Castlereagh Scribbly Gum Woodland vegetation, which is listed under the Threatened Species Conservation Act 1995. Due consideration to the impact that the modification will have on the vegetation has been considered. The development is satisfactory in this regard.

The application was placed on exhibition and notified to the owners and occupiers of adjoining and nearby properties in accordance with Penrith Development Control Plan 2010. The public exhibition period was from 29 September 2014 to 13 October 2014 and no objections were received. An assessment under Sections 96(1A) and 79C of the Environmental Planning and Assessment Act 1979 has been undertaken and the application is recommended for approval.

Site & Surrounds

The subject site is situated on the northern side of Devlin Road. The site is 4.088 Hectares in area, features a 134.3m frontage, is orientated in a southern direction and features a gentle cross fall to the rear.

A site inspection was undertaken on 4/3/15 by Council's Assessing Officer and RFS' Assessing Officer and the site is currently occupied by a single storey fibro cottage, two small sheds, bamboo screening surrounding the dwelling and a colony of frogs to the south and east of the dwelling.

The surrounding area is characterised by rural/residential development.

Proposal

The proposed modifications to the development include the following aspects:

- Amend the requirements of the NSW Rural Fire Service in order to enable the retention of the existing bamboo screening along the southern (front), eastern and western (side) elevations.

Plans that apply

- Local Environmental Plan 2010 (Stage 1 LEP)
- Development Control Plan 2010
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

• Section 5A - Threatened Species assessment

Under Section 5A of the *Environmental Planning and Assessment Act 1979*, an assessment must be made as to whether a development proposal is likely to have a “significant effect” on any threatened species, populations or ecological communities or their habitats (referred to as an “Assessment of Significance” or “seven-part test”) under the TSCA.

While the subject site is mapped to contain endangered Castlereagh Scribbly Gum Woodland vegetation Council's biodiversity officer has indicated the significant vegetation is the bushland (containing the endangered species) which is located 150m deep from the back of the proposed Lot 72, and from the eastern boundary to the proposed western boundary of proposed Lot 72. The proposed modification does not affect this significant vegetation.

Within this modification, the applicant has indicated that the bamboo screening to the south and east of the house is worthy of protection, given the colony of frogs therein. However, this area was not considered significant vegetation by Council's biodiversity officer under DA13/0496 and the GTA's previously issued by the RFS required this bamboo to be cleared to maintain the appropriate APZ of 60m north, 30m south and the proposed side boundaries. That being said, the RFS has considered the proposed modification and issued revised GTA's which enable the existing stands of bamboo located on the southern and eastern sides of the dwelling to be retained and trimmed in height. The bamboo along the north and west of the dwelling, however, is required to be removed in accordance with the amended GTA's.

• Section 79C - Evaluation

The proposed modifications have been assessed in accordance with the matters for consideration under Section 96(2) and 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 91- Integrated development

According to Section 91 of EP&A Act, subdivision of bushfire prone land for rural residential purposes is an

Integrated Development and authorisation under Section 100B of the Rural Fires Act 1997 is required. Section 100B(3) of the Rural Fires Act 1997 further states that a person must obtain a bush fire safety authority before developing bush fire prone land for subdivision. The matter was therefore referred to NSW Rural Fire Service who issued a Bush Fire Safety Authority on 6 March 2015 and recommended conditions to be imposed in the consent.

- **Section 96(2) - Other modifications**

Under the provisions of Section 96(2) of the Environmental Planning and Assessment Act 1979 Council may, in response to an application being made, modify a consent if:

(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and

(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and

(c) it has notified the application in accordance with:

(i) the regulations, if the regulations so require, or

(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and

(d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.

In this regard, the following is noted:

(a) The proposed modifications are considered to be of minimal environmental impact as detailed later in this report.

(b) In *Vacik Pty Ltd v Penrith City Council* (unreported 1992) the question of substantially the same development was considered by Stein J and in particular the meaning of the word 'substantially'. In his opinion 'substantially' is taken in the context to mean 'essentially or materially or having the same essence'.

In *North Sydney Council v Michael Standley & Associates Pty Ltd* (1998) the NSWCA recognised that a modified consent must be different in some respect to the approved development and used the formulation that 'modify' meant 'to alter without radical transformation'.

In applying the ordinary meaning of the words 'substantially the same development' informed by the above cases, the modified development is of the same essence and therefore is substantially the same as the existing approved development.

The external changes to the development are 'minor' as there is no radical transformation to the development; the APZ generally remains the same albeit with the retention of the bamboo screening to the south and east of the existing dwelling. It is clear that the changes are noticeable and the retention of bamboo changes the vegetation within the APZ, however, subject to the modified conditions and amended General Terms of Approval from the RFS, this modification does not change the essence of the previous approval.

(c) The application was required to be notified in accordance with Appendix F4 of Penrith DCP 2010.

(d) No submissions were received regarding the application.

Under Section 96(3), in determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in Section 79C(1) as are of relevance to the modified development. The relevant sections of Section 79C(1) are discussed in turn below.

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

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.

Local Environmental Plan 2010 (Stage 1 LEP)

Provision	Compliance
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Zone objectives	Complies
Clause 2.3 Permissibility	Complies
Clause 2.5 Additional permitted uses for particular land	N/A
Clause 2.6 Subdivision - consent requirements	N/A
Clause 2.7 Demolition requires development consent	N/A
Clause 2.8 Are the temporary use of land requirements achieved?	N/A
Clause 4.1 - the minimum lot size	N/A
Clause 4.1AA Minimum subdivision lot size for community title schemes	N/A
Clause 4.2 Rural Subdivision	N/A
Clause 4.3 Height of buildings	N/A
Clause 4.4 Floor Space Ratio	N/A
Clause 4.5 Calculation of floor space ratio and site area	N/A
Clause 4.6 Exceptions to development standards	N/A
Clause 5.1 Relevant acquisition authority	N/A
Clause 5.10 Heritage conservation	N/A
Clause 5.11 Bush fire hazard reduction	N/A
Clause 5.12 Infrastructure development and use of existing buildings of the Crown	N/A
Clause 5.13 Eco-tourist facilities	N/A
Clause 5.2 Classification and reclassification of public land	N/A
Clause 5.3 Development near zone boundaries	N/A
Clause 5.4 Controls relating to miscellaneous permissible uses	N/A
Clause 5.5 Development within the coastal zone	N/A
Clause 5.6 Architectural roof features	N/A
Clause 5.7 Development below mean high water mark	N/A
Clause 5.8 Conversion of fire alarms	N/A

Clause 5.9 Preservation of trees or vegetation	Complies - See discussion
Clause 5.9AA Trees or vegetation not prescribed by development control plan	N/A
Clause 6.1 Earthworks	N/A
Clause 6.10 Villages of Mulgoa and Wallacia	N/A
Clause 6.11 Orchard Hills	N/A
Clause 6.12 Twin Creeks	N/A
Clause 6.13 Waterside Corporate	N/A
Clause 6.14 Development of land in the flight paths of the site reserved for the proposed Second Sydney Airport	N/A
Clause 6.15 Location of sex services premises and restricted premises	N/A
Clause 6.2 Salinity	N/A
Clause 6.3 Flood Planning	N/A
Clause 6.4 Development on natural resources sensitive land	N/A
Clause 6.5 Protection of scenic character and landscape values	N/A
Clause 6.6 Servicing	N/A
Clause 6.7 Dwelling houses on certain land in Llandilo and Mulgoa	N/A
Clause 6.8 Dual occupancies and secondary dwellings in certain rural and environmental zones	N/A
Clause 6.9 Mulgoa Valley	N/A
Schedule 1 Additional permitted uses	N/A

The proposed modifications are not considered to diminish the approved development's compliance with this plan, although it is worth noting the following:

Clause 5.9 - Preservation of trees or vegetation

The objective of this clause is to preserve the amenity of the area, including biodiversity values, through the preservation of trees and other vegetation. While the proposed modification requires the removal of bamboo located on the dwelling's northern and western elevations, this was required by the GTA's issued from the RFS in order to establish an APZ's for the existing dwelling on Proposed Lot 72.

The removal of vegetation for the purpose of APZ's to the front of the site will not impact biodiversity values for the site nor compromise the amenity of the site as the biodiversity values of the site exist towards to the rear portion and this will be unaffected by the proposed modification. That being said, the GTA's state that the bamboo to the south and east of the existing dwelling can be retained, as requested by the applicant

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

There are no draft environmental planning instruments which apply to this development.

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

Development Control Plan 2010

Provision	Compliance
Part B - DCP Principles	Complies
Part C 1 - Site planning and design principles	N/A
Part C2 - Vegetation management	Complies
Part C3 - Water management	N/A
Part C4 - Land management	N/A
Part C5 - Waste management	N/A
Part C6 - Landscape design	N/A
Part C7 - Culture and heritage	N/A
Part C8 - Public domain	N/A
Part C9 - Advertising and signage	N/A
Part C10 - Transport, access and parking	N/A
Part C11 - Subdivision	N/A
Part C12 - Noise and vibration	N/A
Part C13 - Infrastructure and services	N/A

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

This section is not applicable for the subject application.

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

Built and Natural Environment

The development will require the removal of some vegetation as part of upgrade works to satisfy RFS requirements. However the vegetation removal is minimal and will comprise of species which are mostly not endemic to the local area. Additionally, the bamboo to the east and south of the existing dwelling will be retained under the amended GTA's issued by the RFS.

Overall the proposed modifications do not alter the likely impacts of the development as identified in the original assessment report.

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

The proposed modifications will not diminish the suitability of the development on the site.

Section 79C(1)(d) Any Submissions

Community Consultation

In accordance with Appendix F4 of the Penrith Development Control Plan for the City of Penrith 2010– Notification and Advertising, the proposed development was notified to nearby and adjoining residents. Council received no submission in response.

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

As the proposal is consistent with the objectives of the relevant LEP and the provisions of the DCP, the modified development is considered to be in the public interest.

Conclusion

The modified proposal has been assessed having regard to the relevant provisions and, subject to modified conditions of approval, the Section 96(2) application is considered satisfactory and is recommended for approval.

Recommendation

That DA13/0496.02 for Modifications to Approved Torrens Title Subdivision at 39 Devlin Road, CASTLEREAGH NSW 2749 be approved subject to the following condition modifications:

2. An Asset Protection Zone for protection from bushfire shall be provided and maintained to the existing dwelling on Lot 72, in accordance with the amended recommendations outlined in the NSW RFS General Terms of Approval, dated 6 March 2015 (attached to this consent).

To ensure that the Asset Protection Zone of 60m north, 30m south is provided and maintained around the existing dwelling for the term of the development, a 'positive covenant' shall be registered over the land to which the development relates, **prior to the issue of a Subdivision Certificate.**

Prior to the issue of a Subdivision Certificate, the APZ shall be implemented in accordance with the attached GTA's and documentation and associated legal paperwork shall be forwarded to Penrith City Council for consideration and endorsement which notes Council's interest in the positive covenant before the positive covenant is registered with Land and Property Information (a division of the Department of Lands).{Note: The Asset Protection Zone is the sum total of the Inner Protection Area and Outer Protection Area.}

8. Prior to the release of the linen plan, the following service authority clearances shall be obtained:

- a Section 73 Compliance Certificate under the Sydney Water Act 1994 shall be obtained from Sydney Water. This is required prior to the issue of the Subdivision Certificate and
- a letter from Integral Energy stating that satisfactory arrangements have been made for electricity supply to all proposed allotments in the subdivision, including any necessary easements; and
- a letter from an approved telecommunications service provider that satisfactory arrangements have been made for underground telephone services to all proposed allotments in the subdivision, including any necessary easements.

These clearances are to be submitted to the Principal Certifying Authority.

12. The linen plan of subdivision is to be supported by an 88B instrument creating a Restriction as to User or easement regarding the following:

Lot 72 only:

a) The vegetation located to the rear of proposed Lot 72 is to be retained and protected in perpetuity. The area of vegetation subject to restriction is 150 metres deep from the rear boundary of the site and from the eastern to the proposed western boundary of Lot 72. No construction, development, effluent disposal or damage of any vegetation is to occur within this area.

b) In the event the existing OSSM system for the cottage on Lot 72 should fail or if a single new dwelling constructed (to a maximum of 5 bedrooms), the recommendations of the Wastewater Report prepared by

GeoEnviro Consultancy Pty Ltd dated May 2013 are to be implemented on site.

Lot 71:

c) Effluent can only be disposed of in the irrigation areas as shown on the "Plan of proposed Irrigation Location/Buffer Zone," prepared by Vince Morgan Surveyors (JG13757A dated 15/7/2013).

d) The recommendations contained in the Site and Soil Assessment (prepared by GeoEnviro dated May 2013 ref JG13757A) and the letter by GeoEnviro (ref JG13777A-L1 dated 16/7/2013) are to be complied with in establishing this effluent disposal area.

e) For any development that will generate a wastewater load more than 1000L per day for each lot, a new Wastewater Report will be required.

f) No wastewater associated with an on-site sewage management system is to be applied or irrigated within the drip line of any native trees. It is the responsibility of the applicant to ensure the ongoing health of the trees in relation to the effluent disposal area.

Council shall be nominated as the only authority permitted to modify, vary or rescind such restriction as to user. The linen plan of subdivision is to be supported by an 88B instrument creating a Restriction as to User or easement regarding the following:

Lot 72 only:

a) The vegetation located to the rear of proposed Lot 72 is to be retained and protected in perpetuity. The area of vegetation subject to restriction is 150 metres deep from the rear boundary of the site and from the eastern to the proposed western boundary of Lot 72. No construction, development, effluent disposal or damage of any vegetation is to occur within this area.

b) In the event the existing OSSM system for the cottage on Lot 72 should fail or if a single new dwelling constructed (to a maximum of 5 bedrooms), the recommendations of the Wastewater Report prepared by GeoEnviro Consultancy Pty Ltd dated May 2013 are to be implemented on site.

13. 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, \$1,971.00 is to be paid to Council **prior to a Subdivision 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.

14. 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, \$5,450.00 is to be paid to Council **prior to a Subdivision 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.

15. 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, \$384.00 is to be paid to Council **prior to a Subdivision 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.

CONDITIONS

General

1 [A001](#)

The development must be implemented substantially in accordance with the subdivision plan numbered 17957P2, drawn by Vince Morgan Surveyors and dated 25.07.2013, 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 [A Special \(BLANK\)](#)

An Asset Protection Zone for protection from bushfire shall be provided and maintained to the existing dwelling on Lot 72, in accordance with the amended recommendations outlined in the NSW RFS General Terms of Approval, dated 6 March 2015 (attached to this consent).

To ensure that the Asset Protection Zone of 60m north, 30m south is provided and maintained around the existing dwelling for the term of the development, a 'positive covenant' shall be registered over the land to which the development relates, **prior to the issue of a Subdivision Certificate.**

Prior to the issue of a Subdivision Certificate, the APZ shall be implemented in accordance with the attached GTA's and documentation and associated legal paperwork shall be forwarded to Penrith City Council for consideration and endorsement which notes Council's interest in the positive covenant before the positive covenant is registered with Land and Property Information (a division of the Department of Lands).{Note: The Asset Protection Zone is the sum total of the Inner Protection Area and Outer Protection Area.}

As amended by way of Section 96 of the Environmental Planning and Assessment Act, 1979

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

The conditions imposed by the NSW Rural Fire Service in the Integrated Development consent and in the Bush Fire Safety authority for the said development are to be completed prior to the issue of a Subdivision Certificate.

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

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

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

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

Environmental Matters

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

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.

Health Matters and OSSM installations

7 [F Sspecial \(BLANK\)](#)

Prior to the issue of a Subdivision Certificate, an 'Approval to Operate' License for the existing septic system for fibro cottage on Lot 72, shall be obtained from Penrith City Council.

Utility Services

8 **G Special (BLANK)**

Prior to the release of the linen plan, the following service authority clearances shall be obtained:

- a Section 73 Compliance Certificate under the Sydney Water Act 1994 shall be obtained from Sydney Water. This is required prior to the issue of the Subdivision Certificate and
- a letter from Integral Energy stating that satisfactory arrangements have been made for electricity supply to all proposed allotments in the subdivision, including any necessary easements; and
- a letter from an approved telecommunications service provider that satisfactory arrangements have been made for underground telephone services to all proposed allotments in the subdivision, including any necessary easements.

These clearances are to be submitted to the Principal Certifying Authority.

As amended by way of Section 96 of the Environmental Planning and Assessment Act, 1979.

9 **G Special (BLANK)**

A Section 73 Compliance Certificate under the Sydney Water Act 1994 shall be obtained from Sydney Water. The application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's website at www.sydneywater.com.au then the "e-developer" icon, or telephone 13 20 92.

The Section 73 Compliance Certificate must be submitted to the Penrith City Council prior to the issue of a Subdivision Certificate.

Landscaping

10 **L Special (BLANK)**

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 or required under the attached NSW Rural Fire Service GTA's) without the prior consent of Penrith City Council and in accordance with Council's Tree Preservation Order and Policy.

Subdivision

11 **M Special (BLANK)**

Submission of the original Linen Plan and ten (10) copies. The Linen Plan must indicate that:

(a) "It is intended to dedicate all new roads to the public as road"

All drainage easements, rights of way, restrictions and covenants are to be included on the linen plan.

All dedications of roads/drainage are to be undertaken at no cost to Penrith City Council.

The following information is to be shown on one (1) copy of the plan.

- The location of all buildings and/or other permanent improvements shall comply with any statutory boundary clearances or setbacks as defined by the Building Code of Australia and Council's resolutions.
- All existing services are wholly contained within the lot served and/or covered by an appropriate easement.

12 M Special (BLANK)

The linen plan of subdivision is to be supported by an 88B instrument creating a Restriction as to User or easement regarding the following:

Lot 72 only:

a) The vegetation located to the rear of proposed Lot 72 is to be retained and protected in perpetuity. The area of vegetation subject to restriction is 150 metres deep from the rear boundary of the site and from the eastern to the proposed western boundary of Lot 72. No construction, development, effluent disposal or damage of any vegetation is to occur within this area.

b) In the event the existing OSSM system for the cottage on Lot 72 should fail or if a single new dwelling constructed (to a maximum of 5 bedrooms), the recommendations of the Wastewater Report prepared by GeoEnviro Consultancy Pty Ltd dated May 2013 are to be implemented on site.

Lot 71:

c) Effluent can only be disposed of in the irrigation areas as shown on the "Plan of proposed Irrigation Location/Buffer Zone," prepared by Vince Morgan Surveyors (JG13757A dated 15/7/2013).

d) The recommendations contained in the Site and Soil Assessment (prepared by GeoEnviro dated May 2013 ref JG13757A) and the letter by GeoEnviro (ref JG13777A-L1 dated 16/7/2013) are to be complied with in establishing this effluent disposal area.

e) For any development that will generate a wastewater load more than 1000L per day for each lot, a new Wastewater Report will be required.

f) No wastewater associated with an on-site sewage management system is to be applied or irrigated within the drip line of any native trees. It is the responsibility of the applicant to ensure the ongoing health of the trees in relation to the effluent disposal area.

Council shall be nominated as the only authority permitted to modify, vary or rescind such restriction as to user.

As amended by way of Section 96 of the Environmental Planning and Assessment Act, 1979.

Development Contributions

13 N Special (BLANK)

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, \$1,971.00 is to be paid to Council **prior to a Subdivision 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.

As amended by way of Section 96 of the Environmental Planning and Assessment Act, 1979.

14 **N Special (BLANK)**

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, \$5,450.00 is to be paid to Council **prior to a Subdivision 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.

As amended by way of Section 96 of the Environmental Planning and Assessment Act, 1979.

15 **N Special (BLANK)**

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, \$384.00 is to be paid to Council **prior to a Subdivision 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.

As amended by way of Section 96 of the Environmental Planning and Assessment Act, 1979.

Payment of Fees

16 **P Special (BLANK)**

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

Certification

17 **Q Special (BLANK)**

A Subdivision Certificate is to be obtained **prior to the release of the linen plan of subdivision**. The Subdivision Certificate will not be issued if any of the conditions in this consent are outstanding.