

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA19/0455
Proposed development:	Equine Centre - Animal Boarding & Training Facility
Property address:	1 a Dharug Close, MULGOA NSW 2745
Property description:	Lot 2 DP 1153722
Date received:	10 July 2019
Assessing officer	Sufyan Nguyen
Zoning:	E2 Environmental Conservation - LEP 2010 E3 Environmental Management - LEP 2010
Class of building:	Class 5
Recommendations:	Approve

Executive Summary

Council is in receipt of a development application for the erection of an equine facility at 1a Dharug Close, Mulgoa. The subject site is zoned E2 Environmental Conservation and parity E3 Environmental Management under Penrith Local Environmental Plan 2010. The development proposal is situated in the E3 zoning and is permissible with Council consent.

The key issues identified and addressed as part of the assessment of the proposal were in regard to the following matters:

- The nature of the proposed use and the ancillary activities;
- Land contamination;
- Wastewater management;
- Stormwater management;
- Flora and fauna impacts; and
- Amenity impacts.

The application has been notified to adjoining and nearby properties and publicly exhibited for a period of 14 days. No public submissions were received in response.

An assessment under Section 4.15 of the Environmental Planning and Assessment Act 1979 (the Act) has been undertaken and the application is recommended for approval, subject to recommended conditions.

Site & Surrounds

The subject site has a property address of 1a Dhurag Av Close, Mulgoa and is legally described as Lot 2 DP 1153722. The site has a land area of 164.1 Ha and is irregular in shape. The site accommodates a single dwelling with ancillary structures and a detached rural workers dwelling. The site contains dense vegetation and mature trees across majority of the north-western sections and the middle to the south-east sections, with scattered trees across the site and a few small dams.

The site is identified as bushfire prone land and is affected by the following; an overland flow flooding due to the close proximity of the Nepean River and Nortons Basin to the south of the site, a 5m wide right of carriageway easement adjacent to Donohoes Avenue, situated along the northern boundary, an electricity transmission easement traversing a part of the eastern section of the site and some servicing easements adjacent to the eastern side boundary.

The surrounding area is characterised by an established rural-residential locality, with vast green open space, which contains dense vegetation and forests in accordance with the E2 Environmental Conservation/E3 Environmental Management zoning.

Proposal

The applicant seeks development consent for the erection of an equine facility at 1a Dharug Close, Mulgoa. The equine facility has dimensions of 46.943m (length) x 16.055m (width) x 2.7m (ceiling height), a 5.041m high skillion roof and chimney 659mm higher than the roof pitch, a flat awning covering the rear exit area and a detached skillion roof awning in front of the drop-off area. The facility also includes a horse show arena (approximately 541.4m²) and a demonstration field (approximately 4,919.6m²) situated behind the building for display purposes, which forms part of the sales process.

The equine facility comprises of the following:

- Brickface with timber cladding and aluminum posts, gutters and downpipes, and a colorbond sheet metal roof for the external materials and finishes;
- Front entrance/lobby;
- Waiting/seating area;
- Horse showing/display area;
- Meeting rooms/offices (five);
- Kitchen and staff room;
- Storage room;
- Amenities, including guest toilet, staff shower and stable hand toilet;
- Tack room;
- Pump rooms (two);
- Box stalls (eight);
- Car parking area;
- Earthworks, including tree removal;
- Stormwater drainage works;
- Landscaping works;
- Tree removal;
- Hours of operation from 7am-5pm daily,
- Up to 5 staff; and
- One client at a time via an appointment only basis.

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy No 55—Remediation of Land
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

- **Section 4.15 - Evaluation**

The proposal has been assessed in accordance with the matters for consideration under Section 4.15 of the Act, and having regard to those matters, the following issues have been identified for further consideration.

- **Section 7.12 - Developer Contributions**

The development proposal is subject to Council's City-Wide Section 7.12 Development Contributions Plan for Non-Residential Development. Based on the applicable rate under this Development Contributions Plan, the following development contribution applies to the proposal:

Type of Contribution	Cost of Works	Rate	Amount
Section 7.12 Fixed Development Consent Levy	\$400,000.00	1.0000%	\$4,000.00
Total Contribution			\$4,000.00

A condition of consent requiring the payment of this development contribution, prior to the commencement of any works on-site, has been recommended.

Section 4.15(1)(a)(i) The provisions of any environmental planning instrument

State Environmental Planning Policy No 55—Remediation of Land

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) provides aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. Under Clause 7 of SEPP 55, it must be considered as to whether the land is contaminated, and if so, Council must be satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which development is proposed to be carried out.

In this regard, a review of historical aerial photographs of the site indicates that fill material has been imported onto the property several times; being in early 2011 to the north-east of the existing primary dwelling, adjacent to the northern boundary, in early 2013 immediately adjacent to the existing primary dwelling to the north-east when a shed was constructed, to the south-east of the existing dwelling at the proposed development site in late 2014 and in early 2018 to the south of the existing primary dwelling. Given that that source of the fill material is unknown and has not been documented in Council's records, the applicant was requested to provide documentation to detail the source, quantity and nature of the fill imported onto the site and the dates/timeframe during which the fill was imported onto the property.

The applicant subsequently provided a contamination and validation report, in which netted results above the EIL A criteria for Benzo(a)pyrene in two areas (0.9mg/kg and 1.6mg/kg respectively) and revealed asbestos in another area and a fibrocement sheet identified in a different area.

The report identified these areas as requiring remediation and it should be noted that remediation works were subsequently undertaken without development consent to remove the asbestos, ACM and soils affected by polycyclic aromatic hydrocarbons (PAH) contamination. A clearance certificate has been provided for area identified with asbestos and a validation report has also been provided for the soils affected by PAH contamination.

Asbestos removal was undertaken under the instruction of a licensed asbestos assessor on 28 Aug 2020, which states that four validation samples were taken after the affected soil had been removed. No asbestos was detected in the validation samples. A receipt for the disposal of 31.02 tonnes of asbestos contaminated soil and a clearance certificate attached have been provided.

Validation sampling within the PAH affected areas was conducted after excavation and disposal of affected soils. A receipt for the disposal of 6.52 tonnes General Solid Waste at Eastern Creek Ecology Park by Bingo Waste Services, dated 23 September 2020 have been provided for the waste material. It is noted that this receipt conflicts with the report given that it states that a total of 37.5 tonnes of General Solid Waste was disposed of by Bingo Waste Services. In addition, a total of two validation samples were taken in two different areas, which were below the adopted selection criteria. Further, a Waste classification certificate has not been provided, however, laboratory results with the waste classification has been provided within the report.

In conclusion, the documentation indicates that the site is suitable for its intended proposed development and land use, which has been endorsed by Council's Environmental Management Unit. Therefore, the site is considered to be suitable for the development. In addition, a recommended consent condition is to be imposed to address any unexpected finds by way of an unexpected finds protocol. The relevant provisions of SEPP 55 have therefore been satisfied.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

An assessment has been undertaken of the proposal against relevant criteria within Sydney Regional Environmental Plan No. 20—Hawkesbury-Nepean River (No. 2—1997). This Policy aims “to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context”. The Policy requires Council to assess development applications with regard to general and specific considerations, policies and strategies.

The development proposal is not found to be contrary to the general and specific aims, planning considerations, planning policies and recommended strategies of the plan. Subject to recommended consent conditions, appropriate soil and water management measures will be in place. As such, it is not considered likely that the proposal will result in any adverse impacts on the Hawkesbury-Nepean River system.

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Permissibility	Complies - See discussion
Clause 2.3 Zone objectives	Complies
Clause 5.10 Heritage conservation	Complies - See discussion
Clause 7.1 Earthworks	Complies
Clause 7.2 Flood planning	Complies - See discussion
Clause 7.3 Development on natural resources sensitive land	Complies - See discussion
Clause 7.5 Protection of scenic character and landscape values	Complies - See discussion
Clause 7.7 Servicing	Complies - See discussion
Clause 7.18 Mulgoa valley	Complies - See discussion

Clause 2.3 Permissibility

The development proposal is primarily for an equine facility, which is considered to be type of animal training establishment and is a permissible land use in the E3 zoning under the LEP, captured by the following definition:

animal boarding or training establishment means a building or place used for the breeding, boarding, training, keeping or caring of animals for commercial purposes (other than for the agistment of horses), and includes any associated riding school or ancillary veterinary hospital.

It should be noted that the original proposal illustrates an ancillary "horse show area" and "polo field", which was subsequently clarified at the request of Council. The proposal (as amended) includes an ancillary horse show/display area and a demonstration field, which is intended more to display horses in a static fashion and to adequately demonstrate the capabilities of a horse in a variety of scenarios, most importantly, whilst running as part of the sales process.

The standard practice of showing an endurance horse to a prospective client is as follows:

1. Assess horses overall appearance. At this stage, the purchaser normally views the horse from a distance of some 20-30m.
2. The purchaser then usually requests the horse is taken through a series of physical assessments. This requires space for any unpredicted movements.
3. The purchaser will then view the horse being laid out in a straight line trading for approximately 50-80 m and returning same to assess movement a correct structure.
4. Lunging then takes place requiring an area of approximately 40-50m in circumference.
5. The horse then needs to display his four movements - walk, trot, canter and gallop. This requires a large area for the horse to run through these movements without interruption and is usually conducted in a 'circuit'.
6. Further to this the client may request a veterinary check including x-rays. These can be conducted outside with a mobile x-ray machine.

While so, the demonstration field has a larger area (~4,200m²) than the equine centre's building footprint (753.67m²), it is considered acceptable that this area be used and form a part of the training and caring of horses activities, which is subservient to the dominant use and therefore is permissible. Further, the horse show area (~541m²) is of a minor scale and the nature of displaying of horses is a minor component of the commercial business and therefore it is considered to be an ancillary use.

Clause 5.10 Heritage conservation

The proposal provides adequate setbacks from both adjoining heritage items and contains abundant landscaping between the development and the heritage items. Therefore the proposal is unlikely to result in any heritage impacts.

In addition, the applicant conducted an extensive search in the Aboriginal Heritage Information Management System at the request of Council, which identified scattered artefacts distant from the site at Wallacia Weir, approximately 1.4km to the south-east. Given the large separation distance, the proposal will not adversely impact on the Aboriginal archaeological site.

Clause 7.2 Flood planning

The subject site is affected by overland flooding flows and therefore is subject to Council's flood related development controls. It should be noted that the property is a very large lot and the location of the development proposal is above the 1% AEP flood planning level. Further, the proposal provides flood safe access to/from the public road and therefore the development complies with Council's flooding controls and poses no major flooding risks, as endorsed by Council's Development Engineering Unit.

Clause 7.3 Development on natural resources sensitive land

The development site is identified as being situated within a Natural Resource Sensitive Land and given that the proposal involves tree removal, a flora and fauna assessment report was requested by Council, as stipulated in Section C2.2 (3) Biodiversity Corridors and Areas of Remnant Native Vegetation in Non-Urban Areas of the DCP. A flora and fauna assessment (FFA) report (as amended) was subsequently provided, which coincides with the submitted bushfire hazard and wastewater reports. The FFA report identified the removal of 10 large eucalypts (Red Bloodwood – Grey Gum Woodland), land clearing and excavation works to facilitate a levelled pad and to achieve an Asset Protection Zone. The clearance works involve the removal of 0.82 ha dominated by exotic/non-indigenous pasture with areas of eucalypt regrowth.

A total of 29 flora species were recorded within the subject site, including 20 native and 9 exotic species whereby none of these species are listed under the Threatened Species Conservation Act 1995 (TSC Act) or Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act). The community of 10 trees to be removed is not listed as a threatened ecological community and no threatened flora species are likely to be impacted by the proposal.

Fauna species recorded during the survey include one reptile and 10 birds, noting that one threatened bird identified as a *Lophoictinia isura* (Square-tailed Kite) that was recorded flying over the subject site. This species is listed as Vulnerable under the TSC Act and no individuals of this species were roosting or breeding within the subject site. Notwithstanding, the based on previous records and habitat within the subject site, it is considered that there is potential foraging habitat for hollow dependant microbats, *Lophoictinia isura* (Square-tailed Kite) and *Pteropus poliocephalus* (Grey-headed Flying-fox). It should be noted that potential microbat roosting habitat in the form of a crevice in a large tree exists immediately adjacent to the subject site. However, this habitat is considered marginal and will not be removed or significantly disturbed by the proposed works. In summary, the vegetation to be impacted is considered potential foraging habitat for four threatened microbat species, Grey-headed Flying-fox and the Square-tailed Kite. Assessments of significance were undertaken for these threatened species and concluded that the proposal will not result in a significant impact to these species. As such, no species impact statement is required under the TSC Act and a referral to the Commonwealth under the EPBC Act is not required.

The proposed clearance works and tree removal is considered to be acceptable, as endorsed by Council's Senior Biodiversity Officer, subject to recommended conditions, including the requirement for a fauna ecologists to be on site for the observing and monitoring of the works, in addition three replacement trees for every single tree removed.

Clause 7.5 Protection of scenic character and landscape values

The development proposal is sited beyond any scenic views from nearby major roads, identified heritage items and public places. Therefore, the proposal will be of negligible impact on scenic values of the immediate surrounds.

Clause 7.7 Servicing

The applicant was requested by Council to make provision for an adequate on-site sewage management system for the existing dwellings and the equine facility, which was revised a number of times to Council's satisfaction. The revised wastewater report includes a separate disposal system for human waste and horse waste, as detailed in the Appendix of this report and endorsed by Council's Environmental Management Unit.

Clause 7.18 Mulgoa valley

The proposal is sited out of street view and is of a minor scale relative to the size of the large lot and will not result in any adverse traffic impacts.. The building design incorporates natural earthy tones which is consistent with the rural setting. The proposal generally complies with the relevant subclauses of ***the valley***.

Section 4.15(1)(a)(ii) The provisions of any draft environmental planning instrument

The Draft SEPP (Environment), Draft SEPP (Remediation of Land), Draft SEPP (Housing Diversity) 2020 and Draft SEPP (Cumberland Plain Conservation) are at present applicable to the subject site, but while so, do not affect or alter the recommendations of this report, noting that the proposal is not considered inconsistent with these Draft SEPPs.

Section 4.15(1)(a)(iii) The provisions of any development control plan

Development Control Plan 2014

Provision	Compliance
DCP Principles	Complies
C1 Site Planning and Design Principles	Complies
C2 Vegetation Management	Complies - see Appendix - Development Control Plan Compliance
C3 Water Management	Complies - see Appendix - Development Control Plan Compliance
C4 Land Management	Complies - see Appendix - Development Control Plan Compliance
C5 Waste Management	Complies
C6 Landscape Design	Complies - see Appendix - Development Control Plan Compliance
C7 Culture and Heritage	Complies
C10 Transport, Access and Parking	Complies - see Appendix - Development Control Plan Compliance
C12 Noise and Vibration	Complies - see Appendix - Development Control Plan Compliance
C13 Infrastructure and Services	Complies - see Appendix - Development Control Plan Compliance
D1.1. Rural Character	Complies - see Appendix - Development Control Plan Compliance
D1.5. Non-Agricultural Development	Complies - see Appendix - Development Control Plan Compliance
E9 Mulgoa Valley controls	Complies

Section 4.15(1)(a)(iiia) The provisions of any planning agreement

There are no planning agreements in place, which are applicable to the development proposal.

Section 4.15(1)(a)(iv) The provisions of the regulations

The relevant prescribed conditions of the Regulations, such as the requirement for compliance with the Building Code of Australia (BCA) and fire safety requirements, will be imposed as consent conditions where applicable, as recommended by Council's Building Surveyor. In this regard, the proposal complies with the relevant BCA and fire safety requirements of the Environmental Planning and Assessment Regulation 2000.

In addition, the development application has been notified and publicly exhibited in accordance with the requirements of the Regulations.

Section 4.15(1)(b) The likely impacts of the development

Under Section 4.15 of the Act, consideration must be given to the likely impacts of the development, including environmental impacts on both the natural and built environments, and the social and economic impacts in the locality.

In this regard, the proposal (as amended) demonstrate that there will be minimal impacts on the immediate surrounds. The built form is of a suitable bulk and scale and incorporates adequate rural design elements. The siting provides appropriate setbacks and existing landscape buffers will minimise adverse impacts on the scenic qualities of the Mulgoa Valley.

In regards to environmental impacts, initial land contamination, on-site wastewater management and tree impacts concerns have been satisfied, as demonstrated via the supplementary documentation and detailed in this report, particularly the Appendix section.

Further, given the nature of the rural context and that the proposal is generally compliant with the relevant provisions and controls, the proposal is not considered likely to result in unreasonable socio-economic impacts, noting that there were no public submissions, nor issues of public interest raised.

Section 4.15(1)(c) The suitability of the site for the development

The site is deemed suitable for the development proposal for the following reasons:

- The development site is zoned E3 and the proposal is permissible;
- The proposal is considered to be of a suitable scale;
- Initial land contamination concerns have been resolved;
- The proposal has adequately addressed flood planning controls;
- The provision for adequate servicing for the site has been demonstrated, including wastewater management;
- Stormwater treatment measures are suitable;
- The proposal provides adequate access and off-street parking and vehicular access; and
- The removal of trees will be adequately offset with new tree planting (30 trees).

Section 4.15(1)(d) Any Submissions

Community Consultation

In accordance with Appendix F2 of the DCP, the development application was notified to 49 adjoining and nearby properties and publicly exhibited from 19 July 2020 to 2 August 2020. No public submissions were received in response.

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
Heritage	No objections - subject to conditions
Environmental - Environmental management	No objections - subject to conditions
Environmental - Waterways	No objections - subject to conditions
Environmental - Public Health	No objections - subject to conditions
Environmental - Biodiversity	No objections - subject to conditions

Section 4.15(1)(e) The public interest

The public interest is best served by the orderly and economic use of land for purposes permissible under the relevant planning regime and in accordance with the prevailing planning controls. In this regard, the proposal is considered to be consistent with the relevant planning provisions and subject to compliance with the recommended conditions of consent, the proposal is considered worthy of support and is not considered likely to pose any significant public interest impacts.

Conclusion

In assessing this development proposal against the relevant environmental planning policies, including Penrith Local Environmental Plan 2010, Penrith Development Control Plan 2014, State Environmental Planning Policy No. 55 - Remediation of Land and Sydney Regional Environmental Plan No. 20 - Hawkesbury/Nepean River (No. 2 - 1997), the proposal generally satisfies the aims, objectives and provisions of these policies. The development is not considered likely to result in any unreasonable impacts on the surrounding natural, social or economic environments. The site is suitable for the development and the proposal is in the public interest. Therefore, the application is worthy of support and is recommended for approval, subject to conditions.

Recommendation

That DA19/0455 for the erection of an equine facility, including a horse show arena and demonstration field, associated civil and landscaping works, and on-site wastewater servicing at 1a Dharug Close, Mulgoa.be approved, subject to conditions.

General

1 A001 - Approved plans table

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

Drawing Title	Prepared By	DWG No.	Issue	Date
Site Plan	DDC Architecture + Interior Design	17072-DA-112	4	03/02/2020
Ground Plan	DDC Architecture + Interior Design	17072-DA-200	4	03/02/2020
Roof Plan	DDC Architecture + Interior Design	17072-DA-201	3	03/02/2020
Site Sections	DDC Architecture + Interior Design	17072-DA-300	4	03/02/2020
Building Elevations	DDC Architecture + Interior Design	17072-DA-400/401	3	03/02/2020
Building Sections	DDC Architecture + Interior Design	17072-DA-500	3	03/02/2020
Materials and Finishes	DDC Architecture + Interior Design	17072-DA-800	3	03/02/2020
Site Plan Stormwater Concept	Lowry Hydraulic Services Pty Ltd	(Project 0937) SC02	B	17/03/2020
Ground Floor Stormwater Concept	Lowry Hydraulic Services Pty Ltd	(Project 0937) SC03	B	17/03/2020
Roof Plan Stormwater Concept	Lowry Hydraulic Services Pty Ltd	(Project 0937) SC04	A	09/03/2020
Sediment Control Plan Stormwater Concept	Lowry Hydraulic Services Pty Ltd	(Project 0937) SC05	A	09/03/2020
Detail Sheet Stormwater Concept	Lowry Hydraulic Services Pty Ltd	(Project 0937) SC06	A	09/03/2020

Documents:

- Bushfire Hazard Assessment Report prepared by Control Line Consulting, Ref No. 20.02.044, dated 18 February 2020;
 - Contamination Assessment and Validation prepared by Geotechnique Pty Ltd, Report No. 14705/1-AA, dated 6 November 2020;
 - Flora and Fauna Assessment prepared by Eco Logical Australia, Project No. 19SUT-14748, Version No. V2, dated 9 July 2020; and
 - Soil and Site Assessment for Onsite Wastewater Disposal prepared by Harris Environmental Consulting, Ref: 3963WW, Version [2.0], dated 12 January 2021.
- 2 **A019 - OCCUPATION CERTIFICATE (ALWAYS APPLY)**
The development shall not be used or occupied until an Occupation Certificate has been issued.
- 3 **A029 - HOURS OF OPERATION AND DELIVERY TIMES**
The approved operating hours are from 7am to 5pm daily, with up to 5 staff and up to one client at a time via an appointment only basis.
- 4 **A041 - CONSTRUCTION IN BUSHFIRE AREAS (AMENDED)**
The construction level of the equine centre, inner protection area, access/egress and utility supplies shall be in accordance with the Bushfire Hazard Assessment Report prepared by Control Line Consulting, Ref No. 20.02.044, dated 18 February 2020 and the provisions of the "Planning for Bushfire Protection Guidelines" (November 2019) including "Addendum: Appendix 3" and AS 3959 - 2009 'Construction of Buildings in Bushfire - Prone Areas'.
- 5 **A046 - Obtain Construction Certificate before commencement of works**
A **Construction Certificate** shall be obtained prior to commencement of any building works.

6 **A Special (BLANK)**

There shall be a maximum of 30 horses on the site at any one time.

7 **A Special (BLANK)**

No events, such as open day events and the like shall be undertaken on the site.

Environmental Matters

8 **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 installed and maintained in accordance with the approved erosion and sediment control plan(s) for the development and the Department of Housing's "Managing Urban Stormwater: Soils and Construction" 2004.

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

The sediment and erosion control measures are to be installed **prior to and maintained throughout the construction phase of the development until the land, that was subject to the works, have been stabilised and grass cover established.**

9 **D002 - Spraygrass**

All land that has been disturbed by earthworks is to be spray grassed or similarly treated to establish a grass cover.

10 **D004 - Dust**

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

11 **D005 - Mud/Soil**

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

12 **D006 - No filling without prior approval (Use always, except for bulk earthworks/ major fill operations)**

No fill material shall be imported to the site until such time as a Validation Certificate (with a copy of any report forming the basis for the validation) for the fill material has been submitted to, considered and approved by the Certifying Authority Council. The Validation Certificate shall:

- state the legal property description of the fill material source site,
- be prepared by an appropriately qualified person (as defined in Penrith Development Control Plan 2014) with consideration of all relevant guidelines (e.g. EPA, ANZECC, NH&MRC), standards, planning instruments and legislation,
- clearly indicate the legal property description of the fill material source site,
- provide details of the volume of fill material to be used in the filling operations,
- provide a classification of the fill material to be imported to the site in accordance with the Environment Protection Authority's "Environmental Guidelines: Assessment, Classification & Management of Non-Liquid Wastes" 1997, and
- (based on the fill classification) determine whether the fill material is suitable for its intended purpose and land use and whether the fill material will or will not pose an unacceptable risk to human health or the environment.

{Note: Penrith Development Control Plan 2014 defines an appropriately qualified person as "a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, eco-toxicology, sampling and analytical procedures, risk evaluation and remediation technologies. In addition, the person will be required to have appropriate professional indemnity and public risk insurance."}.

If the Principal Certifying Authority or Penrith City Council is not satisfied that suitable fill materials have been used on the site, further site investigations or remediation works may be requested. In these circumstances the works shall be carried out prior to any further approved works.

13 **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.

14 **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.

15 **D013 - Approved noise level 1**

In the event noise concerns are received at Penrith City Council in relation to the operation of the business, an acoustic assessment is to be provided to Council for review and approval.

The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

16 **D014 - Plant and equipment noise**

The operating noise level of plant and equipment shall not exceed 5dB(A) above the background noise level when measured at the boundaries of the premises. The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

17 **D - Erosion and sedimentation controls**

Erosion and sedimentation controls must be established **prior to the commencement of works on-site** and maintained throughout the duration of the works until the site has been stabilised to prevent off-site transport of eroded sediments.

18 **D - Fauna protection**

Prior to the removal of any trees, a pre-clearance survey must be conducted by a suitably qualified fauna ecologist (with a minimum of 5 years experience). Any fauna found are to be removed prior to tree removal, and managed in accordance with license conditions and best practice guidance for the persistence of the displaced fauna on site.

If during this survey, threatened species are observed, works must not commence and Council must be notified immediately.

Trees identified for removal, are to be gently agitated and lowered to the ground slowly when felling to allow any resident fauna time to escape. This process must occur under the supervision of the qualified ecologist.

Any fauna injured during this process must be submitted for veterinary treatment, followed by care by a suitably qualified wildlife carer, and later released on-site.

19 **D - Management plan for control of priority weed, listed under the Biosecurity Act**

A weed management plan is to be prepared in consultation with Hawkesbury River County Council and submitted to Penrith City Council for approval. The plan must address A. treatments for *Senecio madagascarensis* (Fireweed) B. controls/treatments to prevent increased weed invasion associated with the works.

The first treatment for Fireweed is to be conducted **prior to the commencement of works on-site**.

20 **D - Retain fallen logs and debris**

All trees that are identified for removal, once felled in accordance with the Consent Conditions, are to be retained for use on site to provide for fauna habitat.

Recommendations for reuse of the material (provided by the experienced bushland regenerator) must be outlined in the replanting plan.

21 **D - Stockpiles and machinery**

Soil and material stockpiles, and machinery are to be located within already cleared areas (away from the dripline of retained trees).

22 D - Tree Preservation Order

No native trees or other vegetation (including shrubs and other understory vegetation) are to be removed, ringbarked, cut, topped, lopped, slashed or wilfully destroyed (other than those shown on the plan submitted as Figure 4, within the Flora and Fauna Assessment prepared by Eco Logical Australia, Project No. 19SUT-14748, Version No. V2, dated 9 July 2020 without the prior consent of Penrith City Council and in accordance with Council's Tree Preservation Order and Policy.

23 D - Tree protection measures

No fill, machinery, or materials are to be placed or stored within the drip line of any tree that is to be retained, specifically in the Flora and Fauna Assessment prepared by Eco Logical Australia, Project No. 19SUT-14748, Version No. V2, dated 9 July 2020.

All trees that are required to be retained, within the vicinity of the subject site and along access routes, are to be protected in accordance with the minimum tree protection standards as outlined in AS 4970-2009 'Protection of trees on development sites'.

Prior to commencement of any works on-site, an inspection of tree protection measures implemented in association with the construction footprint is to be undertaken by Penrith Council Officers.

24 D - Tree replacement

3 trees are to be planted on the subject property (within the vicinity of the subject site) for every 1 tree removed.

Trees must be selected as per the Flora and Fauna report recommendations, notably:

- Red Bloodwood (a minimum of ten)
- Grey Gum
- Sydney Red Gum
- Eucalyptus crebra

Planting must be completed within 1 month after works are completed.

A planting guide, prepared by a qualified bushland regenerator (with a minimum of 5 years experience), is to be submitted for Council approval, **prior to the commencement of works on-site**.

The trees must be maintained (and replaced where losses occur), for a period of 3 years or until they reach a height of 3.5 meters, whichever comes first.

A report (including photographic evidence) must be submitted to Council to confirm establishment of the replacement plants, to these specifications. Council may undertake an inspection to confirm this condition has been satisfied.

25 D - Waste controls

Waste control measures will be established before works begins and maintained throughout the duration of the works, through until their completion to prevent off-site transport of waste associated with the development.

26 D Special BLANK

Prior to the issue of a Construction Certificate, a manure management plan is to be provided to Council.

The manure management plan shall be designed to minimise odours and be implemented onsite at all times.

BCA Issues

27 E01A - BCA compliance for Class 2-9

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).

It is the owner's responsibility to place on display, in a prominent position within the building at all times, a copy of the latest fire safety schedule and fire safety certificate/ statement for the building.

Health Matters and OSSM installations

28 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

29 G003 - Section 73 Certificate for single rural dwellings & dual occs only

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 Principal Certifying Authority before an Occupation Certificate is issued for the development.

30 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

31 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-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 on-site, 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.

32 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 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.

33 H041 - Hours of work (other devt)

Construction 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 that 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

34 K201 - Infrastructure Bond

An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Penrith City Council's Public Infrastructure Assets. The bond is to be lodged with Penrith City Council prior to commencement of any works on site or prior to the issue of any Construction Certificate, whichever occurs first. The bond and applicable fees are in accordance with Council's adopted Fees and Charges.

An application form together with an information sheet and conditions are available on Council's website.

Contact Penrith City Council's City Works Department on 4732 7777 or visit Penrith City Council's website for more information.

35 K201 - Infrastructure Bond

An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Penrith City Council's Public Infrastructure Assets. The bond is to be lodged with Penrith City Council prior to commencement of any works on site or prior to the issue of any Construction Certificate, whichever occurs first. The bond and applicable fees are in accordance with Council's adopted Fees and Charges.

An application form together with an information sheet and conditions are available on Council's website.

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

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

Prior to the issue of a Construction Certificate, a Section 138 Roads Act application, including payment of application and inspection fees, shall be lodged with and approved by Penrith City Council (being the Roads Authority) for any works required in a public road. These works may include but are not limited to the following:

- a) Vehicular crossings (including kerb reinstatement of redundant vehicular crossings)
- b) Concrete footpaths and or cycleways
- c) Road opening for utilities and stormwater (including stormwater connection to Penrith City Council roads and other Penrith City Council owned drainage)
- d) Road occupancy or road closures
- e) The placement of hoardings, structures, containers, waste skips, signs etc. in the road reserve
- f) Temporary construction access

All works shall be carried out in accordance with the Roads Act approval, the development consent, including the stamped approved plans, and Penrith City Council's specifications, guidelines and best engineering practice.

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

Note:

- Where Penrith City Council is the Certifier for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
- Separate approvals may also be required from Transport for NSW for classified roads.
- All works associated with the Roads Act approval must be completed **prior to the issue of an Occupation Certificate**.
- On completion of any awning over the road reserve, a certificate from a practising structural engineer certifying the structural adequacy of the awning is to be submitted to Council before Council will inspect the works and issue its final approval under the Roads Act.

37 K210 - Stormwater Management

The stormwater management system shall be consistent with the stormwater concept plans lodged for development approval, prepared by Lowry Hydraulic Services Pty Ltd, Project No. 0937, Drawing No's: SC02-SC03, Revision B, dated 17/03/2020 and SC04-SC06, Revision A, dated 09/03/2020, subject to the following amendment:

- a) The proposed absorption pit shall have a minimum capacity of 2000L/50m² of impervious area; and
- b) An operation and Maintenance Manual for the Stormwater Treatment measures shall be prepared.

Prior to the issue of a Construction Certificate, the Certifier shall ensure that the stormwater management system has been designed in accordance with Penrith City Council's Stormwater Drainage Specification for Building Developments and Water Sensitive Urban Design (WSUD) Policies.

Engineering plans and supporting calculations for the stormwater management systems are to be prepared by a suitably qualified person and shall accompany the application for a Construction Certificate.

38 [K301 - Sediment & Erosion Control](#)

Prior to commencement of works sediment and erosion control measures shall be installed in accordance with the approved Construction Certificate and to ensure compliance with the Protection of the Environment Operations Act 1997.

The erosion and sediment control measures shall remain in place and be maintained until all disturbed areas have been rehabilitated and stabilised.

39 [K501 - Penrith City Council clearance – Roads Act/ Local Government Act](#)

Prior to the issue of an Occupation Certificate, the Principal Certifier shall ensure that any works associated with a Section 138 Roads Act approval (if required) have been inspected and signed off by Penrith City Council.

40 [K503 - Works as executed – General and Compliance Documentation](#)

Prior to the issue of an Occupation Certificate, works-as-executed drawings, final operation and maintenance management plans and any other compliance documentation for the stormwater management system shall be submitted to the Principal Certifier in accordance with Penrith City Council's Engineering Construction Specification for Civil Works, Stormwater Drainage Specification for Building Developments and WSUD Technical Guidelines.

An original set of Works As Executed drawings and copies of the final operation and maintenance management plans and compliance documentation shall also be submitted to Penrith City Council with notification of the issue of the Occupation Certificate where Penrith City Council is not the Principal Certifier.

41 [K504 - Stormwater Compliance](#)

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall ensure that the stormwater management system (including water sensitive urban design measures):

- Have been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent.
- Have met the design intent with regard to any construction variations to the approved design.
- Any remedial works required to be undertaken have been satisfactorily completed.

Details of the approved and constructed system/s shall be provided as part of the works-as-executed drawings.

42 [K505 - Restriction as to User and Positive Covenant](#)

Prior to the issue of an Occupation Certificate, a restriction on the use of land and positive covenant relating to the stormwater management system (including water sensitive urban design) shall be registered on the title of the property. The restriction on the use of land and positive covenant shall be in Penrith City Council's standard wording as detailed in Council's Stormwater Drainage Specification for Building Developments – Appendix F.

43 [K601 - Stormwater Management System Operation and Maintenance](#)

The stormwater management system shall continue to be operated and maintained in perpetuity for the life of the development in accordance with the final operation and maintenance management plan.

Regular inspection records are required to be maintained and made available to Penrith City Council on request. All necessary improvements are required to be made immediately upon awareness of any deficiencies in the stormwater management systems, including stormwater treatment measure/s.

Landscaping

44 [L001 - General](#)

All landscape works are to be constructed in accordance with the stamped approved plans and Appendix F4: Technical Information and C6 Landscape Design of the *Penrith Development Control Plan 2014*.

Landscaping shall be maintained:

- in accordance with the approved plans, and
- in a healthy state, and in perpetuity by the existing or future owners and occupiers of the property.

If any of the vegetation comprising that landscaping dies or is removed, it is to be replaced with vegetation of the same species and, to the greatest extent practicable, the same maturity as the vegetation which died or was removed.

45 **L002 - Landscape construction**

The approved landscaping for the site shall be constructed by a suitably qualified and experienced landscaped professional.

46 **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 Development Control Plan 2014*.

47 **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.

48 **L008 - Tree PreservationOrder**

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.

49 **L008 - Tree PreservationOrder**

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.

50 **L012 - Existinglandscaping (for existing development)**

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

Development Contributions

51 **No food for sale**

Food shall not be prepared or handled at the premises for the purposes of sale as defined in Chapter 3 of the ANZFA Food Safety Standards. To sell food includes:

- (a) barter, offer or attempt to sell; or
- (b) receive for sale; or
- (c) have in possession for sale; or
- (d) display for sale; or
- (e) cause or permit to be sold or offered for sale; or
- (f) send, forward or deliver for sale; or
- (g) dispose of by any method for valuable consideration; or
- (h) dispose of to an agent for sale on consignment; or
- (i) provide under a contract of service; or
- (j) supply food as a meal or part of a meal to an employee, in accordance with a term of an award governing the employment of the employee or a term of the employee's contract of service, for consumption by the employee at the employee's place of work;
- (k) dispose of by way of raffle, lottery or other game of chance; or
- (l) offer as a prize or reward; or
- (m) give away for the purpose of advertisement or in furtherance of trade or business; or
- (n) supply food under a contract (whether or not the contract is made with the consumer of the food), together with accommodation, service or entertainment, in consideration of an inclusive charge for the food supplied and the accommodation, service or entertainment; or
- (o) supply food (whether or not for consideration) in the course of providing services to patients or inmates in public institutions, where 'public institution' means 'public institution' as defined in the Act, if it is so defined; or
- (p) sell for the purpose of resale.

52 **N Special (Section 7.2 Contribution)**

This condition is imposed in accordance with Penrith City Council's Section 7.12 Contributions Plan for Non-Residential Development. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$4,000.00 is to be paid to Council prior to the issue of a Construction Certificate** (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 7.12 Contributions 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 Section 7.12 invoice accompanying this consent should accompany the contribution payment. The Section 7.12 Contributions Plan for Non-Residential Development may be inspected at Council's Civic Centre, 601 High Street, Penrith.

Certification

53 **Q001 - Notice of Commencement & Appointment of PCA1**

Prior to the commencement of any earthworks, construction or demolition 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 6.6 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 6.6 of the Environmental Planning and Assessment Act 1979.

54 **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 6.6 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 6.6 of the Environmental Planning and Assessment Act 1979.

55 **Q05F - Occupation Certificate for Class10**

An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and prior to the occupation/use of the development.

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

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

Operation of OSSM

56 **R101 - Operational Approval prior to use**

The on-site sewage management (OSSM) system and effluent management area shall be installed and operated in accordance with the:

- “Environmental and Health Protection Guidelines - On-Site Sewage Management for Single Households”
- AS 1547:2012,
- Council's On-Site Sewage Management and Greywater Reuse Policy,
- Current (at the time of installation) NSW Health Accreditation documentation,
- The Wastewater Report prepared by Harris Environmental Consulting, Ref: 3963WW, Version [2.0], dated 12 January 2021 and
- The Effluent Management Area Plans prepared by Harris Environmental Consulting, Ref: 3963WW, Version [2.0], dated 12 January 2021, and
- The conditions of this consent.

57 **R102 - OSSM System Type and Disposal Area (all systems)**

All wastewater generated on the site is to be diverted to NSW Health Accredited, Aerated Waste water Treatment Systems and be disposed of by way of surface irrigation in the approved effluent management areas. Each effluent management area is to be located in accordance with the stamped approved Effluent Management Area Plan (prepared by Harris Environmental Consulting, Ref: 3963WW, Version [2.0], dated 12 January 2021 and have the following minimum areas of:

- Primary dwelling and Equine Centre - 778 m²;
- Secondary dwelling - 556 m²; and
- Horse stables - 1,061 m².

58 **R103 - Council inspections for Installation**

Penrith City Council is both the consent authority and certifying authority for the installation of the On-Site Sewage Management System (OSSM). **It is your responsibility to contact Council's Development Services Department to organise all inspections required for the installation of the system.**

In this regard, the septic tank(s) and disposal area(s) will need to be inspected on completion of the system's installation (before backfilling occurs) and prior to its commissioning, to ensure compliance with those conditions specific to the installation of the system.

A copy of the satisfactory inspection reports carried out by Council shall be submitted to the Principal Certifying Authority if Council is not the Principal Certifying Authority

59 **R104 - No alterations without approval**

The septic tank, drainage and irrigation lines and effluent management area shall not be altered without the prior approval of Council. In addition, the septic tank shall not be buried or covered.

60 **R105 - Plumbing Code of Australia**

All house drainage and sanitary plumbing shall be carried out in accordance with the requirements of the Plumbing and Drainage Act 2011 and the Plumbing Code of Australia.

61 **R106 - AWTs - Design of Irrigation System**

The design of the irrigation system for the effluent management area is to be such that:

- The distribution line is to be buried from the tank to the designated disposal area;
- The moveable irrigation line and sprinklers (including the plume from the sprinklers) situated within the disposal area can not exceed the designated boundaries of the disposal area; and
- The treated wastewater can be evenly irrigated across the entire designated disposal area.

62 **R107 - AWTs - Irrigation pipework (surface or sub-surface)**

All irrigation pipework and fittings shall comply with AS 2698 “Plastic Pipes and Fittings for Irrigation and Rural Applications”. In this regard:

- The irrigation system is not to be connected to/not capable of connection to the mains water supply;
- Standard household fittings, soaker hoses, garden sprinklers and standard water hose fittings are not to be used;
- All distribution lines of the irrigation system to any standpipe shall be buried to a minimum 100mm below finished surface level;
- Spray irrigation equipment connected to distribution lines shall be fixed; and
- Spray irrigation shall only use low pressure, low volume spray heads which are not capable of producing aerosols. The spray shall have a maximum plume height 400mm and a plume radius of not more than 2 metres.

63 **R109 - No effluent runoff**

There shall be no effluent runoff from the subject property to adjoining premises, public places or reserves.

64 **R110 - EMA Signage**

A minimum of two signs shall be erected within the effluent management area. These signs are to state "RECLAIMED EFFLUENT - NOT FOR DRINKING - AVOID CONTACT". The signage shall be maintained for the term of the development.

65 **R111 - AWTs Servicing**

The owner/occupier shall enter into an annual service contract with the manufacturer, distributor or other person authorised (in writing) by Penrith City Council to service the aerated septic tank(s) every three (3) months from the date of commissioning in the following manner:

i. A three monthly service shall include a check on all mechanical, electrical and functioning parts of the aerated system including:

- the chlorinator,
- replenishment of the disinfectant,
- all pumps and switches,
- the air blower, fan or air venturi,
- the alarm system,
- the effluent disposal area and filters,
- the slime growth on the filter media, and
- the operation of the sludge returns system.

ii. The following field tests are to be carried out at every service:

- free residual chlorine using DPD colorimetric or photometric method,
- pH from a sample taken from the irrigation chamber,
- dissolved oxygen from a sample taken from the final aeration or stilling chamber (although recommended) is optional.

iii. On the yearly anniversary date of the commissioning of the system, an annual service of the system shall also be carried out which includes a check on the sludge accumulation in the septic tank (primary treatment tank) and the clarifier, where appropriate.

iv. For systems which utilise the sewage treatment principle of activated sludge or contact aeration, a sludge bulking test, known as a SV30 Test, shall also be conducted on an annual basis. This test is to determine whether the accumulated sludge is bulking, indicating that the aeration compartment(s) will require desludging.

v. On completion of each service, a service report sheet is to specify all service items and test results, the amount of chlorine compound provided, parts replaced (if applicable), the date the service was conducted and the technician's name. A copy of the service report is to be:

- given to the property owner and another to the applicant (if not the same), and
- forwarded to Penrith City Council.

Each service agent shall provide a registered business office which, if unattended during business hours, is provided with a telephone answering device or service. A means of reporting a malfunction or breakdown outside normal business hours shall be available. In the event of a breakdown or malfunction, the service agent shall, within 24 hours of the breakdown or malfunction, ensure that temporary repairs are carried out to the aerated system to ensure continued operation of the system. This may necessitate provision of adequate spare parts and temporary replacement blowers and irrigation pumps where repairs cannot be completed on site.

66 **R114 - EMA Turfed**

The effluent management area is to be turfed to the satisfaction of Council. Where a specific variety of turf is identified in the approved Wastewater Report that variety is to be installed and maintained.

67 **R115 - No structures on EMA**

No concreting, driveways, vehicles or any other structure or access way is to be located over any portion of the effluent management area.

68 **R116 - Diversion of stormwater**

All stormwater and seepage shall be diverted away from the septic tank and the disposal area.

69 **R117 - No plants for human consumption within EMA**

Orchards, vegetable gardens or any other plant species that can be used for the purposes of human consumption are not to be planted within the effluent management area. Effluent from the on-site sewage management system is not to be used on fruit or vegetables grown for human consumption.

70 [R118 - EMA protected from stock damage](#)

The effluent management area shall be protected from possible stock damage.

71 [R127 - NSW Health Accreditation documentation required](#)

Prior to the issue of a Construction Certificate, the NSW Health Accreditation documentation is to be submitted to Council. If Council is not the certifying authority, a copy of Council's written approval is to be provided to the Private Certifying Authority.

72 [R Special BLANK](#)

Prior to the issue of an Occupation Certificate and before the onsite sewage management system can be used, an Approval to Operate is to be sought from and issued by Penrith City Council.

Prior to the issue of the 'Approval to Operate', a Commissioning Certificate for the OSSM system shall be provided to Penrith City Council for approval. This Certificate shall certify that the aerated wastewater treatment system (AWTS) has been installed and is operating in accordance with the conditions of its NSW Health accreditation documentation.

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part C - City-wide Controls

C3 Water Management

C3.2 Catchment Management and Water Quality

The original proposal failed to provide sufficient details to demonstrate compliance with Council's Water Sensitive Urban Design (WSUD) Policy given that the stormwater management system did not initially incorporate any stormwater treatment measures, MUSIC modelling or maintenance schedules. While so, a 120kL rainwater is proposed for reuse, no information was provided in relation to how much rainwater will be reused for meeting non-potable demands associated with the other components of the development. The applicant subsequently submitted an amended stormwater concept plan at the request of Council to give consideration to Council's WSUD Policy. The stormwater system (as amended) incorporates Ocean protect pit inserts and 10x690mm stormfilters, with a 120kL rainwater proposed for reuse to address stormwater treatment measures. It is noted that the reuse demand is overall compliant with Council's WSUD Policy requirements and in consideration of the nature and context of the development and the proposed stormwater management approach, which includes runoff being directed to an infiltration trench, the stormwater treatment and reuse measures are considered to be adequate, as endorsed by Council's Senior Water Management Officer, subject to recommended consent conditions.

C3.6. Stormwater Management and Drainage

It is noted that Council's Senior Development Engineer advised that the proposed absorption pit is too small and is required to be sized at a minimum rate of 2000L/50m² of impervious area, in accordance with design and size requirements of Council's Stormwater Drainage Specification for Building Developments Policy. This matter is to be addressed via a recommended consent condition, which will ensure that there will be minimal drainage impacts.

C4 Land Management

C4.1 Site Stability and Earthworks

The site is affected by a substantial slope and is also constrained by numerous mature trees and bushfire hazards and overland flooding flows. Therefore, there is limited opportunity to relocate the building footprint and ancillary horse show arena and demonstration field. As such, the development requires excess amounts of fill for levelling, being up to approximately 7m of fill around the eastern section of the demonstration field. It should be noted Council's Senior Development Engineer raised no concerns in regards to site stability and general earthworks requirements. Further, the proposal has been designed to minimise overall earthworks and tree impacts, and therefore the extent of cut and fill works is considered to be acceptable in this instance.

C6 Landscape Design

C6.1.4 Site Amenities

The architectural plans depict some groundcover (shrubs/small trees) surrounding sections of the proposed equine facility, that being adjacent to the end of the north-west elevation facades and between the equine facility and the horse show arena. However, given that there are no specific details of the landscape design and that a landscape plan was not accompanied with the application, in addition to the requirement of replacement trees for the removal of 10 eucalypts on the site, it is considered appropriate that a landscape plan be submitted to and approved by Council prior to construction works and the occupation of the development.

C10 Transport Access and Parking

C10.5 Parking, Access and Driveways

It should be noted that the DCP does not stipulate any specific parking rates for animal and training boarding establishments. In consideration of the minor nature and scale of the proposal in terms of parking and traffic impacts, noting that up to five staff and one client is to be on site, the proposed parking and vehicular access arrangements are considered to be acceptable. That is, the provision of a two-way driveway connecting to the existing driveway and four off-street parking spaces, with ample space for informal parking.

C12 Noise and Vibration

C12.4 Industrial and Commercial Development

The proposal indicates that there will be no increase in horse numbers and due to the large size of the site, it is considered that noise and odour impacts on surrounding properties will be negligible. Further, a review of Council's records shows that there have been no complaints and in light of the development not further increasing the number of animals, it is considered that an acoustic assessment is not warranted. Notwithstanding, a recommended condition is to be imposed to resolve any future noise complaints associated with the development, such that an acoustic assessment is to be provided to Council for review and approval.

C13 Infrastructure and Services

C13.3 On Site Sewage Management

A review of Council records shows that there are two habitable dwellings on site but with only one authorised, on-site sewage management system (OSSM). A wastewater report and a subsequent letter were submitted at the request of Council to address all wastewater generating activities on the site and provides recommendations for the disposal of effluent on-site. The documentation provides general information about the existing OSSM systems, which indicates that two existing aerated wastewater treatment systems (AWTS) with a maximum capacity of 10-12 people and a volume of approximately 7,500L is provided on-site, with effluent disposed of by way of surface irrigation. This documentation is inadequate and does not meet the requirements set out by Councils On-Site Sewage Management and Greywater Reuse Policy (2014).

An amended wastewater report was subsequently submitted, which recommends the retaining the two existing AWTS systems to treat effluent from both the primary dwelling and rural workers dwelling. Both will dispose of effluent by surface irrigation within a suitable area and are considered to be satisfactory. A site visit on 10 December 2020 by Council's Environmental Management Officer revealed that both systems are in a satisfactory condition.

The wastewater report is based on advice by the owners that the site will be staffed by residential occupants. The Statement of Environmental Effects indicates that casual staff will be employed on an "as needed" basis with a maximum of 5 casual staff at any one time. It is proposed that effluent from the equine centre will be treated by the primary dwellings AWTS system. In this regard, Council generally does not support combining domestic and commercial systems. However, it should be noted that if an AWTS system does not receive adequate volumes of waste it becomes ineffective at treating waste, therefore it is considered that diverting the commercial waste to the domestic AWTS system may be more appropriate in this instance.

In addition, it is proposed that the greywater from the horse wash down bay and stables are to be diverted to a separate AWTS and disposed of by spray irrigation within the demonstration field. It should be noted that the area was not quantified in meters squared nor supported with hydraulic analysis to substantiate the proposed effluent disposal area. The wastewater report states that the wastewater generated from the equine centre does not need Council approval to install and operate. However, the Local Government Act 1993 defines waste as:

a) effluent, being any matter or thing, whether solid or liquid or a combination of solids and liquids, which is of a kind that may be removed from a human waste storage facility, sullage pit or grease trap, or from any holding tank or other container forming part of or used in connection with a human waste storage facility, sullage pit or grease trap, or

(b) trade waste, being any matter or thing, whether solid, gaseous or liquid or a combination of solids, gases and liquids (or any of them), which is of a kind that comprises refuse from any industrial, chemical, trade or business process or operation, including any building or demolition work, or

(c) garbage, being all refuse other than trade waste and effluent, and includes any other substance defined as waste for the purposes of the Protection of the Environment Operations Act 1997, and a substance is not precluded from being waste merely because it is capable of being refined or recycled

Therefore, for the purposes of the proposal, the generation of greywater from the commercial use of the stables constitutes waste production under the definition for waste in the Local Government Act and as such, requires Council approval to install and operate. The proposed disposal location is required to be supported with calculations for the proposed sizing of the effluent disposal area. The effluent management area plan should also express the sizing of the effluent disposal area in m². Further amendments to the wastewater report was provided in this regard, which satisfactorily demonstrates an appropriately sized effluent disposal area for the equine waste water, as endorsed by Council's Environmental Management Officer.

D1 Rural Land Uses

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D1.1 Rural Character

The proposal is sited behind the primary dwelling and surrounded by dense vegetation such that it not be visible from the streetscape or neighbouring dwellings. Notwithstanding, the design elements incorporate rural features, such as timber cladding, colorbond roof sheeting, etc., which ensures that the building is compatible the rural character of the locality.

D1.4.4 Animal Boarding or Training Establishments

1) General Requirements

The subject site is large lot and provides adequate buffer distances to minimise any adverse amenity impacts on neighbouring properties.

2) Setbacks for Dog Boarding, Training or Breeding Establishments

The site is a battle-axe lot, which is accessed by an approximate 378m long right of carriageway driveway. In this regard, the proposal is technically non-compliant with the minimum 90m frontage lot width requirement. However, the site has an approximate 2.15km north-eastern site boundary to adjoining properties and the proposal is suitable sited away from neighbouring dwellings to minimise any amenity impacts and therefore is considered acceptable in this instance.

3) Design for Dog Boarding, Training or Breeding Establishments

As mentioned above, the proposal provides sufficient buffer distances to protect the amenity of adjoining properties. In the case there are any future complaints, the applicant will be required to undertake an acoustic assessment and noise mitigation measures, which will be addressed via a recommended consent condition.

4) Operations for Dog Boarding, Training or Breeding Establishments

The proposal is primarily for the caring, training and sales of horses, which is deemed suitable for the capacity of the site.