

PENRITH CITY COUNCIL

FAST LIGHT ASSESSMENT REPORT

Application number:	DA20/0416
Proposed development:	In-ground Swimming Pool
Property address:	132 - 144 Mayfair Road, MULGOA NSW 2745
Property description:	Lot 3 DP 260373
Date received:	9 July 2020
Assessing officer	Luke Caruana
Zoning:	E2 Environmental Conservation - LEP 2010
Class of building:	Class 10b
Recommendation:	Approve

Executive Summary

Council is in receipt of a development application for the subject development on the subject site and the proposal is a permissible land use with Council consent.

Site & Surrounds

The subject site is situated on the south side of Mayfair Road. It is 10Ha in area, slopes down from the street and is orientated to the north.

An inspection of the site was undertaken on 17/07/2020 and the site is currently occupied by a single dwelling.

The surrounding area is characterised by rural residential development.

Proposal

The proposed development involves the construction of an in-ground swimming pool including associated drainage works.

Plans that apply

Biobanking Agreement 112 - Fernhill
BUSHFIRE PRONE LAND (ENTIRELY)
1996 CENSUS COLLECTORS DISTRICT
PENRITH DCP 2014
DRAFT AMENDMENT - DCP 2014 HOUSEKEEPING
GENERAL LIST
MISC - AGRICULTURAL ACTIVITIES WITHIN RURAL AREAS
LEP 2010 / DCP 2014 - Mulgoa Valley Controls
DCP 2014 - Tree Preservation Controls
LEP 2010 - Dual Occupancy and Secondary Dwellings
DCP 2014 - General Information
LEP 2010 - SERVICED APARTMENTS
PLAN INST - SREP NO 9 EXT IND (NO 2-1995) AA
PLAN INST - SREP NO 20 HAW NEP RIV (NO2-1997) AA
FLOOD RELATED DEVELOPMENT CONTROLS
Heritage Item(s) - Local Environmental Plan 2010
Local Environmental Plan 2010
No Comp Devel under GHC – Her Item/Dr Her Item
No Comp Devel under GHC – Biobank Ag/Prop Veg
No Comp Devel under GHC – Env Sens Land
No Comp Devel under HA Code -Her Item/Dr Her Item
No Comp Devel under CIA Code -Her Item/Dr Her Item
No Comp Devel under Sub Code -Her Item/Dr Her Item
No Comp Devel under RH Code - Her Item/Dr Her Item
No Comp Devel under RH Code - Env Sens Land
No Comp Devel under RH Code - Biobank Ag/Prop Veg
No Comp Devel under GD Code - Her Item/Dr Her Item
No Comp Devel under Dem Code - Her Item/Dr Her Item
No Comp Devel under C & I (NBA) Code - Her Item
No Comp Devel under C & I (NBA) Code - Env Sens Land
No Comp Devel under C & I (NBA) Code - Bio Ag/Pr V
No Comp Devel under FS Code - Her Item
No Comp Devel under LRHDC – Her Item/Dr Her Item
No Comp Devel under LRHDC – Biobank Ag/Prop Veg
No Comp Devel under LRHDC – Env Sens Land
No Comp Devel under H Code - Her Item/Dr Her Item
No Comp Devel under H Code - Env Sens Land
No Comp Devel under H Code - Biobank Ag/Prop Veg
Asbestos Policy
PRECINCT 2010
SEC 94 CONTRIB PLAN - CULTURAL FACILITIES
SEC 94 CONTRIB PLAN - LOCAL OPEN SPACE 2007
SEC 94 CONTRIB PLAN - DISTRICT OPEN SPACE FACILS
STATE ENV PLANNING POLICIES - GENERAL LIST
SOUTH WARD
E2 Environmental Conservation - LEP 2010
E3 Environmental Management - LEP 2010
LEP 2010 - Clause 7.2 Flood Planning
LEP 2010 - Clause 4.2A Res Devel and Subdn Prohib
LEP 2010 - Additional Land Use Notes

Planning Assessment

- Section 4.15 - Evaluation**

The development has been assessed in accordance with the matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979.

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

Is the development permissible in the zone?

Complies

Is the development consistent with any requirements of environmental planning instruments relevant to this proposal (including any applicable SEPP's, SREP's and LEP's)?

Complies

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

Is the development consistent with any draft planning instruments relevant to this proposal

N/A

Section 4.15(1)(a)(iii) Any development control plan

Is the development consistent with the provisions of any development control plan relevant to this proposal?

Complies

Section 4.15(1)(a)(iv) Any applicable regulations

Is the development consistent the provisions of any regulations relevant to this proposal?

NO ANSWER

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

Context and setting

Is the development consistent with the bulk, scale colour and design of other development in the locality?	Complies
Will the development have only a minor impact of the amenity of the area and the streetscape?	Complies
Is the development compatible with surrounding and adjacent land uses	Complies
Will the development have no or minimal impact on the amenity of the area in terms of:	
Sunlight (overshadowing):	Complies
Visual and acoustic privacy:	Complies
Views or vista:	Complies

Access and Transport

Will the development have no or minimal impact on the local road system	Complies
Is the existing and any proposed access arrangements and car parking on site adequate for the development?	Complies

Heritage

The property is not subject to any heritage order or is identified as heritage under a planning instrument.	N/A
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Soil

The development will have minimal impact on soil erosion and sedimentation	Complies
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Natural and Technological Hazards

The development is not subject to flooding, subsidence or slip	Complies
Land is not considered to be contaminated:	N/A
Bushfire requirements provided for the development	Complies
Acoustic requirements provided for the development	N/A

Site design

The development is sensitive to environmental conditions and site attributes.	Complies
Does the development safe guard the health and safety of the occupants	Complies

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

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

Section 4.15(1)(d) Any submissions made in accordance with the EPA Act and Regulations?

Was the application required to be publicly notified?	No
Were any submissions received during the public notification period?	N/A

Section 4.15(1)(e)Public Interest

The application will have minimal impacts on public interest	Complies
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Conclusion/Summary

In assessing this application against the relevant environmental planning policies, the proposal satisfies the aims, objectives and provisions of these policies.

The proposed design is site responsive, complies with key development standards and is in the public interest.

The site is suitable for the proposed development, the proposal is in the public interest, and there is unlikely to be negative impacts arising from the proposed development.

Therefore, the application is worthy of support, subject to recommended conditions.

Recommendation

1. That DA20/0416 for the installation of an in-ground swimming pool at Lot 3 DP 260373 No 132-144 Mayfair Road, be approved subject to the attached conditions (Development Assessment Report Part B).

General

1 **A001 - Approved plans that are architecturally drawn**

The development must be implemented substantially in accordance with the plans prepared by Crystal Pools, pages P01-P04 inclusive, revision A, dated 06.07 and stamped approved by Council, the application form, the BASIX Certificate and any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

2 **A008 - Works to BCA requirements (Always apply to building works)**

The work must be carried out in accordance with the requirements of the Building Code of Australia. If the work relates to a residential building and is valued in excess of \$20,000, then a contract of insurance for the residential development shall be in force in accordance with Part 6 of the Home Building Act 1989.

{Note: Residential building includes alterations and additions to a dwelling, and structures associated with a dwelling house/dwelling such as a carport, garage, shed, rural shed, swimming pool and the like}.

3 **A019 - OCCUPATION CERTIFICATE (ALWAYS APPLY)**

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

4 **A046 - Obtain Construction Certificate before commencement of works**

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

Environmental Matters

5 **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.

6 **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.

7 **D014 - Plant and equipment noise**

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

BCA Issues

8 **E001 - BCA compliance**

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

- (a) complying with the deemed to satisfy provisions, or
- (b) formulating an alternative solution which:
 - complies with the performance requirements, or
 - is shown to be at least equivalent to the deemed to satisfy provision, or
- (c) a combination of (a) and (b).

Construction

9 **H001 - Stamped plans and erection of site notice**

Stamped plans, specifications, a copy of the development consent, the Construction Certificate and any other Certificates to be relied upon shall be available on site at all times during construction.

The following details are to be displayed in a maximum of 2 signs to be erected on the site:

- the name of the Principal Certifying Authority, their address and telephone number,
- the name of the person in charge of the work site and telephone number at which that person may be contacted during work hours,
- that unauthorised entry to the work site is prohibited,
- the designated waste storage area must be covered when the site is unattended, and
- all sediment and erosion control measures shall be fully maintained until completion of the construction phase.

Signage but no more than 2 signs stating the above details is to be erected:

- at the commencement of, and for the full length of the, construction works onsite, and
- in a prominent position on the work site and in a manner that can be easily read by pedestrian traffic.

All construction signage is to be removed when the Occupation Certificate has been issued for the development.

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

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

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

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

12 [H041 - Hours of work \(other devt\)](#)

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

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

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

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

Swimming Pools

13 [J002 - Fencing when water in pool](#)

When the swimming pool construction has reached a stage where the pool is capable of holding water, the pool area shall be restricted from access in accordance with AS1926 "Swimming Pool Safety". Restriction of access to the pool area shall also comply with the Swimming Pools Act, 1992.

14 [J004 - Pool fence \(residential\)](#)

At all times, the swimming pool is to be surrounded by a child-resistant barrier that:

- separates the swimming pool from any residential building situated on the premises and from any place (whether public or private) adjoining the premises, and
- is designed, constructed, installed and maintained in accordance with the standards prescribed by AS 1926 "Swimming Pool Safety".

15 [J005 - Windows](#)

For each window giving access to the swimming pool (but does not apply to a child-safe window or to a window that is totally enclosed by a child-safe grille):

- the bottom of the lowest opening panel of the window must (when measured in the closed position) be at least 1.2 metres above finished floor level, and
- there must not be any footholds wider than 10 millimetres between the bottom of the lowest opening panel of the window and any point within 1.1 metres below the bottom of that panel.

16 [J007 - Boundary fencing](#)

If a common boundary fence forms part of the pool enclosure, the provision, maintenance and effectiveness of the said boundary fence is the responsibility of the pool owner whilst ever the pool exists. Alternatively, the pool shall be fully enclosed by isolation fencing.

17 [J010 - Pool board/ sign \(add J009\)](#)

A sign must be erected in a prominent position in the immediate vicinity of the swimming pool and must:

- be erected in accordance with the provisions relating to instructional posters of the document entitled "Policy Statement No. 9.4.1: Guidelines for the Preparation of Posters on Resuscitation" published by the Resuscitation Council. (A copy may be purchased from Penrith City Council's Civic Centre, 601 High Street, Penrith), and
- bear a notice that contains the words "YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS SWIMMING POOL", together with details of resuscitation techniques (for adults, children and infants) set out in the relevant provisions of the document entitled "CardioPulmonary Resuscitation" published by the Australian Resuscitation Council. (A copy may be purchased from Penrith City Council's Civic Centre, 601 High Street, Penrith).

18 [J011 - NSW Swimming Pool Register](#)

The swimming pool must be registered on the NSW Swimming Pool Register when it is capable of holding water and before the issue of an Occupation Certificate. The swimming pool is to be registered at www.swimmingpoolregister.nsw.gov.au or in person at Penrith City Council (\$10 fee applies when registering at Council).

19 [J012 - Backwash and Overflow](#)

All backwash from the swimming pool shall be directed into the mains sewer.

In areas where sewer is not available, the following requirements apply -

- The swimming pool shall be provided with filtration equipment that does not require a backwash facility (eg. a cartridge filtration system).
- Overspill water shall be diverted away from the swimming pool and not directed onto adjoining properties.
- The frequency of emptying of the swimming pool water shall be minimised. Water resulting from the emptying of the pool shall be collected and disposed of by a private wastewater disposal contractor. Disposal by other means is not permitted.

Engineering

20 [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 the issue of any Construction Certificate. The bond and applicable fees are in accordance with Councils adopted fees and charges.

An application form together with an information sheet and conditions are available on Councils website.

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

Landscaping

21 [L008 - Tree Preservation Order](#)

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

Payment of Fees

22 [P002 - Fees associated with Council land \(Applies to all works & add K019\)](#)

Prior to the commencement of any works on site, all fees associated with Penrith City Council-owned land and infrastructure shall be paid to Council. These fees include Road Opening fees and Infrastructure Restoration fees.

Certification

23 [Q01F - Notice of Commencement & Appointment of PCA2 \(use for Fast Light only\)](#)

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

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

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

Information to accompany the Notice of Commencement

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

24 [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 swimming pool.

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.