



# STATEMENT OF ENVIRONMENTAL EFFECTS

Construction of a new two storey dwelling with swimming pool and associated site landscaping.

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## ADDRESS -

92 River Road, Emu Plains  
(Lot 12 in DP 1247788)

## DATE -

June 2021

## PLANNING & DEVELOPMENT CONSULTANTS

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### APPENDIX A - Clause 4.6 Submission to Building Height [cl 4.3(2)] of the PLEP 2010.



REPORT

1 PURPOSE OF THIS REPORT

This statement provides an opinion, in addition to relevant information for the consent authority to assess and determine the subject development application including the following:

- A site analysis of the site and surrounding lands.
- Description of the proposed development.
- Evaluation of the proposed development against legislative and policy framework.
- Conclusion.

The Statement of Environmental Effects is prepared in accordance with Schedule 1 of Environmental Planning and Assessment Regulation 2000 (*‘EPA Reg. 2000’*) for the purposes of demonstrating that the environmental impact of development has been considered against the relevant controls and to outline steps to be undertaken to protect the environment or to mitigate any potential harm.

The development proposal is local development as defined by the Environmental Planning and Assessment Act 1979 (*‘EPAA’*) and as such Penrith City Council is the consent authority.

2 THE SITE AND ITS CONTEXT

The subject site is legally defined as Lot 12 in DP 1247788 (92 River Road, Emu Plains). It is located on the north-western side of River Road between the intersections of Hunter Street (east) and Nepean Street (west). The site is irregular in shape with angled frontage to River Road which measures 22.82m, depth of 60.115m (northeast), 53.24m (southwest) and rear boundary of 21.595m, yielding a site area of 1,223m<sup>2</sup> (by Title). With respect to topography, the site experiences a fall of approximately 1.2m from the rear boundary (27.92AHD) down towards the street frontage (26.68AHD).

On the 13 September 2018 Council approved Development Application (DA18/0704) with respect to a boundary alignment of the site which at the time comprised two lots. During assessment it was requested that demolition of existing built form be included (to occur prior to release of a Subdivision Certificate). The site is vacant with a new two storey dwelling since constructed on the corresponding.

Development surrounding the site is characteristic of the low-density zoning of the site, consisting detached dwelling houses of single and two storey construction of varied form and finish. Penrith Regional Gallery and Lewers Bequest adjoins the north east boundary with the Nepean River opposite.



Figure 1 - Subject Site (source - NSW Planning Portal)

### 3 PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks Council's consent for construction of a new two storey dwelling:

- Ground floor comprising double car garage with storage perpendicular to the street frontage, bedroom, laundry and WC. A centrally located and open planned kitchen, dining and lounge is provided with rumpus to the rear as well as covered alfresco area.
- First floor comprising three (3) bedrooms, each with ensuite and WIR as well as a separate study. Two small balconies are also provided to the front facade of the dwelling.
- With respect to materials and finishes external walls to the ground floor consist of painted render (Surfmist) with cladding of the same colour tone to the first floor. White limestone features are also provided to components of façade and colorbond sheet roofing (Surfmist).
- Construction of a swimming pool adjacent to the dwelling and northeast side boundary.
- Associated landscaping as detailed upon the landscape plan prepared by Contour.

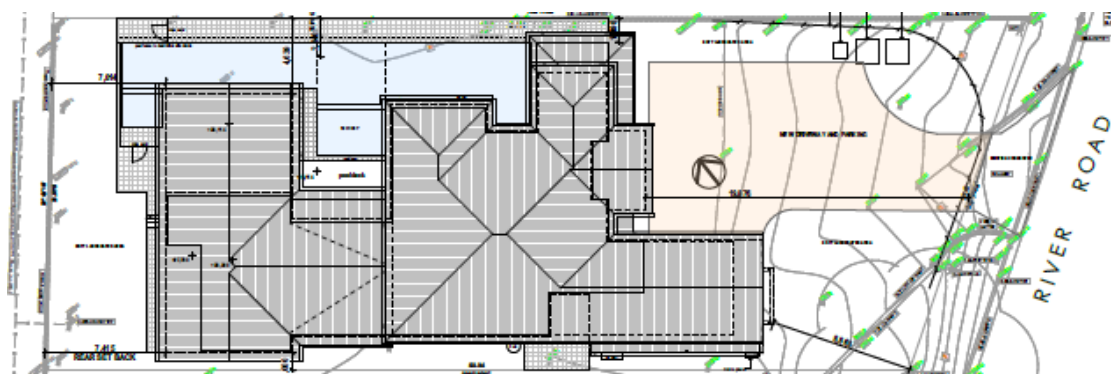


Figure 2 - Site Plan (source - Fyffe Design)



Figure 3 - South East (front) and North West (rear) elevation (source - Fyffe Design)



Figure 4 - North East (side) elevation (source - Fyffe Design)

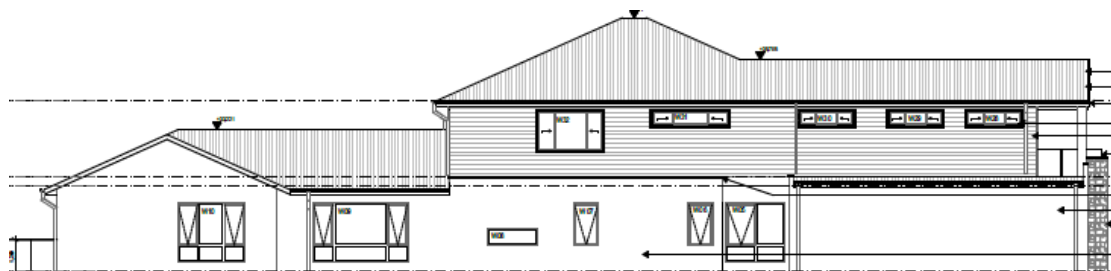


Figure 5 - South West (side) elevation (source - Fyffe Design)

#### 4 ASSESSMENT UNDER SECTION 4.15 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

##### 4.1 (a) the provision of: (i) any Environmental Planning Instruments

###### 4.1.1 State Environmental Planning Policies

###### **State Environmental Planning Policy No. 55 (SEPP No. 55) Remediation of Land**

According to the provisions of clause 7 of SEPP No. 55 Council must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated, and if the land is contaminated it is satisfied that the land is suitable in its contaminated state (or will be suitable after remediation) for the purpose that development consent is sought.

**Comment** - The proposed development involves construction of a new dwelling house. In so far as the site has an extended history of residential use, Council may be satisfied that the land is not contaminated and is suitable for the use proposed.

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

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 ("BASIX") applies to the proposed development.

**Comment** - In accordance with the above the application is accompanied by a BASIX Certificate which commits to environmentally sustainable measures.

###### **State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017**

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 applies to non-rural areas of the State inclusive of the subject local government area and aims to (a) protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and (b) preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.

**Comment** - Proposed works do not entail the removal of, or impact upon any existing vegetation. In this regard it is noted that the large Jacaranda tree slightly forward of the site to the southern corner within the street verge will not be impacted noting consolidated lawn that is maintained adjacent.

###### **Sydney Regional Environmental Plan No 20 - Hawkesbury-Nepean River (No 2-1997) (1997 EPI 592)**

The site is subject to SREP 20 of which 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 site is also mapped as being scenic protection land.

**Comment** - Proposed development is considered acceptable with respect to provisions of the SREP noting particularly that no adverse impact on the quality and environment of the river system results.

###### 4.1.2 Local Environmental Planning Instruments

###### **Penrith Local Environmental Plan 2010**

The site is zoned R2 'Low Density Residential' under the provisions of Penrith Local Environmental Plan 2010 (PLEP 2010). The proposed development relates to the construction of a 'dwelling house' which is a permissible under the land use table, subject to consent.

Objectives of the R2 Low Density Residential zone are:

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

- To promote the desired future character by ensuring that development reflects features or qualities of traditional detached dwelling houses that are surrounded by private gardens.
- To enhance the essential character and identity of established residential areas.
- To ensure a high level of residential amenity is achieved and maintained.

**Comment** - Given permissible form of development and compliance with applicable planning provisions as detailed within this SEE, the proposal remains consistent with stated objectives.

Following is a summary table indicating performance of the proposal against statutory standards:

Requirement	Proposed	Compliance
<b>CI 4.3 - Building Height</b>		
Site located in Area 'I' of the Building Height Map (8.5m).	Maximum 9.2m	<b>No</b> Clause 4.6 submission Appendix A
<b>CI 5.10 - Heritage Conservation</b>		
<b>(4) Effect of proposed development on heritage significance</b> The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).	Site is not listed as a heritage item or located in a conservation area. It is located adjacent to a heritage item (I69) which is the Lewers Bequest and Regional Art Gallery, houses and gardens at 84 - 88 River Road. Noting spatial separation as well as vegetation of which provides a visual buffer, setting and or significance of the site is not foreseen to be compromised.	Yes
<b>CI 7.2 - Flood Planning</b>		
<b>(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development -</b> (a) is compatible with the flood hazard of the land, and (b) will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and (c) incorporates appropriate measures to manage risk to life from flood, and (d) will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of the river banks of waterways, and (e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.	Site is mapped as flood prone and in this regard a Flood Information was provided by Council on the 21 April 2021. A Flood Impact Assessment that has been prepared by C & M Consulting Engineers also accompanies the submission and indicates compliance with relevant controls and guidelines.	Yes

CI 7.5 - Protection of Scenic Character and Landscape Values		
(3) Development consent must not be granted for any development on land to which this clause applies unless the consent authority is satisfied that measures will be taken, including in relation to the location and design of the development, to minimise the visual impact of the development from major roads and other public places.	The Nepean River which opposes site is identified on the PLEP 2010 Scenic and Landscape Values Map. Given the generous front setback of the dwelling and landscape setting retained forward view and / or vistas of the eastern footpath and river will not be compromised.	Yes

#### 4.2 (a)(ii) any Draft Environmental Planning Instruments

There are no draft planning instruments and / or amendments of relevance.

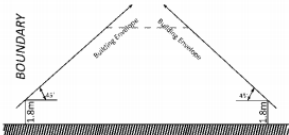
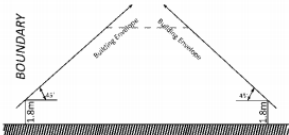
#### 4.3 (a)(iii) any Development Control Plan

##### Penrith Development Control Plan 2014

The proposed development is affected by provisions of the Penrith Development Control Plan 2014 (PDCP 2014). Compliance of the proposal against prescriptive controls is outlined below:

Clause	Proposed	Compliance
<b>D2 Residential Development</b>		
<b>2.1 Single Dwellings</b>		
<b>2.1.2 Setback and Building Envelope</b>		
1. Minimum front and side setbacks:		
a) Front setback is the greater of either i) 5.5m, or ii) The average of the setbacks of the adjoining properties	8.863m	Yes
c) Encroachments to front setbacks i) Verandahs and pergolas are permitted to encroach 1.5m beyond the setback to the primary street frontage ii) Garages, carports and parking spaces, other than stacked parking or driveways, are not permissible within the front setback	No encroachments proposed.	Yes
d) Side setbacks to external walls should be 900mm.	1.498 (min) - North East 1m (min) - South West	Yes Yes
e) Rear setbacks		
i) The minimum rear setback for a single storey building (or any single storey component of a building) is 4m	7.014m	Yes
ii) The minimum rear setback for a two storey building (or any two storey component of a building) is 6m	2.055m	Yes
f) Exceptions to rear setbacks - consideration may be given to the erection of a non-habitable building or structure that does not comply with the minimum setback requirements if it can be demonstrated it will have	No encroachments proposed.	Yes



<p>minimal adverse impact on the subject property or any adjoining property.</p>					
<p>2. Building Envelope</p> <p>a) Development to be contained within building envelope for the site. As shown in Figure D2.1 below, the building envelope means a height plane over the site at 45° from a specified height above natural ground level at the side boundaries of the site.</p>		<p>As detailed upon architectural plans the dwelling breaches the height plane primarily to the southwest side elevation. Bulk and scale of the dwelling is not dissimilar to established built form that adjoins, and in the absence of any resulting adverse amenity impacts as detailed within this statement, that proposed is considered acceptable on merit and consistent with objectives that underly the control.</p>	<p>Acceptable</p>		
<table><tr><th>Zone</th><th>Maximum building envelope</th></tr><tr><td>R2 Low Density Residential</td><td></td></tr></table>	Zone			Maximum building envelope	R2 Low Density Residential
Zone	Maximum building envelope				
R2 Low Density Residential					
<p>2.1.4 Landscaped Area</p>					
<p>1) The minimum landscaped area of a site is: Zone R2 (50%)</p>		<p>356.47m<sup>2</sup> (29%).</p> <p>Objectives underlying the control relate to provision of landscaped garden areas, conserving existing vegetation, spatial separation between dwellings and the preservation of private open space corridors along rear fence lines.</p> <p>Despite the non-compliance a large area of soft landscape is provided primarily to the front and rear yards. No vegetation is compromised, separation is maintained primarily through compliant setbacks and large pool that is located adjacent to the northeast boundary. Rear yard does also retain desired open space corridor.</p> <p>The total landscaped area does not appear dissimilar to that of surrounding sites noting the presence of swimming pools and paving to many. Further the soft landscaped area that is provided is complemented by a detailed planting schedule.</p>	<p>Acceptable</p>		
<p>2) Calculation of landscaped area does not include areas of the site; a) Less than 2m in width b) Hard surface areas such as buildings, driveways and paved areas.</p>		<p>Noted</p>	<p>-</p>		

3) Calculation of landscaped area may include up to 15m <sup>2</sup> of any verandah, deck or patio that is attached to a dwelling at ground floor level and is associated with a landscaped area that is designated open space for that dwelling	Noted - Factored in calculation.	-
4) A portion of the landscaped area should be connected to or directly adjacent to a living area of the dwelling.	Landscaped area to the rear yard is directly accessible.	Yes
<b>2.1.5 Building Design / Site Works</b>		
1) Articulation		
a) "Articulate" all building forms and facades:		
i) stepping floor plans should be capped by a variety of roof forms and pitches;	Floor plans are stepped with roof form well-articulated.	Yes
ii) every elevation should incorporate windows;	Windows to each elevation	Yes
iii) walls should be overhung by shady verandahs, awnings and carports.	Eaves provided throughout.	Yes
2) Bulk and Scale		
a) Two storey buildings to be designed as a combination of one and two storey elements with a variety of setbacks from boundaries.	Single and two storey elements utilised with setbacks varied.	Yes
b) External walls are not to be longer than 8m between distinct corners or features such as projecting verandahs and awnings or banks of windows.	Walls are well articulated and < 8m from distinctive corners.	Yes
c) All balconies and decks higher than 800mm above existing ground level shall incorporate privacy measures such as screening or landscape planting.	First floor balconies oriented towards the street and have a limited depth, thus do not necessitate any screening.	Yes
3) Design		
a) Dwellings should front the street, and display a traditional configuration with:		
i) The front door and a window to a habitable room facing the street	Front door centrally located and oriented to the street.	Yes
ii) Garages integrated within the building façade	Garage is well integrated.	Yes
iii) The size of driveways minimised, retaining sufficient area for landscaping of front gardens	Driveway is considered to be acceptable with a significant landscaped curtilage adjacent.	Yes
4) Garages		
a) Must be setback at least 1m behind the building line of the dwelling	In this instance the garage forms the primary building line and as it is perpendicular and presents window openings as opposed to garage doors to the street it is acceptable.	Acceptable
b) The total width of all garage doors facing a primary or secondary road frontage must not exceed; (ii) If the lot has a width > 15m measured at the building line - 6m.	As detailed above garage doors do not face street frontage.	Yes

6) Parking		
a) Parking is to be provided at the rate of:		
i) Minimum of one space behind the building alignment	2 spaces provided.	Yes
ii) Two spaces for each dwelling with two or more bedrooms, at least one behind the building alignment.	2 spaces provided.	Yes
<b>2.1.6 Solar Planning</b>		
1) Demonstrate that dwellings meet acceptable solar standards and that existing neighbouring and proposed private open spaces receive adequate solar access:		
a) maximise potential for solar gain by placing windows in all exterior walls that are exposed to northern sun;	Significant glazing is provided to the north east elevation.	Yes
b) ensure that proposed development provides a minimum of 3 hours sunlight between 9am and 3pm on 21 June, to living zones of the dwelling, and the living zones of any adjoining dwellings;	Setbacks and glazing facilitate solar access to subject dwelling with shadow diagrams in plan that accompany application demonstrating that the adjoining site (93 River Road) also receives > 3 hours.	Yes
c) ensure that proposed development provides a minimum of 3 hours sunlight between 9am and 3pm on 21 June, to 40% of the main private open spaces of the dwelling and main private open spaces of any adjoining dwellings, and	As detailed above.	Yes
d) where existing overshadowing by buildings and fences reduces sunlight to less than this, sunlight is not further reduced by more than 20%.	> 3 hours is provided.	N/A
<b>2.1.7 Garden Design and Fencing</b>		
2) Fencing;		
a) Meets the requirements of the Dividing Fences Act 1991	Existing fencing is retained.	Yes
b) Fences should be generally no taller than 1.8m	As detailed above.	Yes
c) Fences along boundaries forward of the front building alignment should not be taller than 1.2m and consist of see-through construction;	New fencing adjacent to the street is 1.2m and transparent.	Yes
e) Fences that can be seen from the street or fronts a public park frontage not be constructed of solid metal panels.	Not proposed.	N/A
h) Any solid base is not taller than 600mm; and	Front fence complies.	Yes
i) Panels are spaced pickets or palings, or palisade fencing	Spaced palings utilised.	Yes
3) The rear boundary setback should provide:		
a) The principal area of private open space;	Provides principal space.	Yes
b) A corridor of habitat, and a green backdrop that is visible from the street;	Noting length of sites planting is not visible from the street.	Yes
c) Conservation for existing corridor of mature trees; and/or	No existing vegetation.	Yes
d) An interlocking canopy of low to medium-height trees and shrubs; predominantly species indigenous of Penrith City.	Stated canopy not apparent to area and thus not replicated.	Acceptable

4) Planting along side boundaries is to provide small-to medium height canopy trees for sun-shading and privacy separation between neighbouring dwellings and yards;	Noting limited width, screen hedging has been utilised.	Acceptable
5) Planting along narrow service areas is to provide feature plantings of ground covers pavers or an alternative water-permeable material such as river pebbles.	Ground covers and pebbles are incorporated most notably to the south west boundary.	Yes
6) Street frontages are to;		
a) be sympathetic to the natural setting and character in form materials and colour; and	Considered acceptable.	Yes
b) incorporate mixed species of trees, shrubs, and accent plantings including flowers, ground covers and turf;	Varied species provided.	Yes
d) maximize natural surveillance from the street to the building and from the building to the street.	Suitable casual surveillance of the street is afforded.	Yes
<b>2.1.8 Significant Landscapes</b>		
For sites located within significant landscapes:		
1) Maintain topography and features such as rock outcrops;	The site is located adjacent to the Nepean River which is identified as a significant natural landscape precinct. Given spatial separation provided by both River Road and the adjacent walkway the proposed development will have no adverse impacts. Design of dwelling, generous front setback and landscaped curtilage are also noted.	Yes
2) Preserve established trees, preferably as blocks or corridors of several trees;		
3) Ensure that long term survival of established trees is not affected by the location of buildings and pavements or construction works.		
4) Preserve clusters of established trees as blocks or corridors		
5) Consider a wider side boundary setback as landscaped corridor to preserve trees and provide vistas between neighbouring buildings.		
6) On sloping sites garages may be located at street-level within the front set-back, subject to an "open" design similar to a screened carport.		
8) In general, new plantings should be species indigenous to the local soil type, reinforcing visual and habitat values.		

**4.4 (a)(iv) any matter prescribed by the regulations that apply to land to which the development relates**  
There are no matters that are applicable to this application.

**4.5 (b) likely Impacts of the Development**

*(i) Impact on the natural environment:*

The proposed development will not have any adverse impact on the natural environment noting that the site is within an established residential precinct and has been previously cleared.

*(ii) Impact on the built environment:*

The proposed dwelling has been assessed against the detailed design provisions contained within the PLEP 2010 PDGP 2014 and is considered appropriate notwithstanding the minor non-compliance with building height (cl4.3) which is addressed by way of clause 4.6 submission at Appendix A.



Bulk, scale and design of the proposed dwelling is considered appropriate, and further complemented by a detailed landscape scheme which will ensure suitable integration with surrounding built form.

Furthermore, the proposal is not considered to result in any unreasonable amenity impacts in the form of overshadowing, privacy or views loss towards surrounding sites.

*(iii) Social and Economic impacts in the locality:*

The proposed development will not have any adverse social / economic impacts.

#### **4.6 (c) suitability of the site for the development**

The proposed development has been assessed against applicable planning provisions. Having regard to the assessment contained in this report, the site is considered to remain suitable.

#### **4.7 (d) any submissions made in accordance with the Act or the regulations**

It is anticipated that the development application would be notified to surrounding properties. Should any submissions be received these will be considered by Council within any assessment.

#### **4.8 (e) the public interest**

The proposed development is considered consistent with objectives of the Environmental Planning and Assessment Act in so far as it promotes the co-ordinated and orderly, and economic use and development of the land. Accordingly, it is deemed to be consistent with the public interest.

### **5 CONCLUSION**

The proposed development has been assessed in accordance with Section 4.15(1) of the EP & A Act 1979 and applicable planning instruments. It is permissible under the PLEP 2010 and in our opinion is consistent with relevant objectives notwithstanding non-compliance with building height (cl4.3) which is addressed by way of clause 4.6 submission at Appendix A.

Further, the development performs adequately in terms of its relationship to surrounding built and natural environment, particularly in relation to likely impacts upon surrounding properties.

Consequently, the proposal is considered acceptable from an environmental planning perspective and should be supported by Council, subject to appropriate conditions of consent.